

SECOND REGULAR SESSION

HOUSE BILL NO. 1538

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ELLEBRACHT.

3283H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 260, RSMo, by adding thereto thirty new sections relating to the Missouri climate commitment act, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 260, RSMo, is amended by adding thereto thirty new sections, to
2 be known as sections 260.1111, 260.1112, 260.1113, 260.1114, 260.1115, 260.1116,
3 260.1117, 260.1118, 260.1119, 260.1120, 260.1121, 260.1122, 260.1123, 260.1124,
4 260.1125, 260.1126, 260.1127, 260.1128, 260.1129, 260.1130, 260.1131, 260.1132,
5 260.1133, 260.1134, 260.1135, 260.1136, 260.1137, 260.1138, 260.1139, and 260.1140, to
6 read as follows:

**260.1111. 1. Sections 260.1111 to 260.1140 shall be known and may be cited as
2 the "Missouri Climate Commitment Act".**

3 2. As used in sections 260.1111 to 260.1140, the following terms mean:

**4 (1) "Allowance", an authorization to emit up to one metric ton of carbon dioxide
5 equivalent;**

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

**10 (3) "Annual allowance budget", the total number of greenhouse gas allowances
11 allocated for auction and distribution for one calendar year by the department;**

**12 (4) "Asset controlling supplier", any entity that owns or operates interconnected
13 electricity generating facilities or serves as an exclusive marketer for such facilities even**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 **though such entity does not own such facilities, and has been designated by the**
15 **department and received a department-published emissions factor for the wholesale**
16 **electricity procured from such entity's system. The department shall use a methodology**
17 **consistent with the methodology used by an external greenhouse gas emissions trading**
18 **program that shares the regional electricity transmission system. Electricity from an**
19 **asset controlling supplier shall be considered a specified source of electricity;**

20 **(5) "Auction", the process of selling greenhouse gas allowances by offering them**
21 **up for bid, taking bids, and distributing the allowances to winning bidders;**

22 **(6) "Auction floor price", a price for allowances below which bids at auction are**
23 **not eligible to be accepted;**

24 **(7) "Auction purchase limit", the limit on the number of allowances one**
25 **registered entity or a group of affiliated registered entities may purchase from the share**
26 **of allowances sold at an auction;**

27 **(8) "Balancing authority", the responsible entity that integrates resource plans**
28 **ahead of time, maintains load-interchange-generation balance within a balancing**
29 **authority area, and supports interconnection frequency in real time;**

30 **(9) "Balancing authority area", the collection of generation, transmission, and**
31 **load within the metered boundaries of a balancing authority, and the area within which**
32 **a balancing authority maintains load-resource balance;**

33 **(10) "Best available technology", a technology or technologies that will achieve**
34 **the greatest reduction in greenhouse gas emissions, taking into account the fuels,**
35 **processes, and equipment used by facilities to produce goods of comparable type,**
36 **quantity, and quality. Best available technology shall be technically feasible,**
37 **commercially available, economically viable, not create excessive environmental**
38 **impacts, and be compliant with all applicable laws while not changing the**
39 **characteristics of the good being manufactured;**

40 **(11) "Biomass", nonfossilized and biodegradable organic material originating**
41 **from plants, animals, and microorganisms, including products, by-products, residues,**
42 **and waste from agriculture, forestry, and related industries as well as the nonfossilized**
43 **and biodegradable organic fractions of industrial waste including, but not limited to,**
44 **gases and liquids recovered from the decomposition of nonfossilized and biodegradable**
45 **organic material;**

46 **(12) "Biomass-derived fuels," "biomass fuels," or "biofuels", fuels derived from**
47 **biomass that have at least forty percent lower greenhouse gas emissions based on a full**
48 **life-cycle analysis if compared to petroleum fuels for which biofuels are capable as**
49 **servicing as a substitute;**

50 (13) "Carbon dioxide equivalents", a measure used to compare the emissions
51 from various greenhouse gases based on the global warming potential of such emissions;

52 (14) "Carbon dioxide removal", deliberate human activities removing carbon
53 dioxide from the atmosphere and durably storing it in geological, terrestrial, or ocean
54 reservoirs, or in products. Carbon dioxide removal includes, but is not limited to,
55 existing and potential anthropogenic enhancement of biological or geochemical sinks
56 and including, but not limited to, carbon mineralization and direct air capture and
57 storage;

58 (15) "Carbon sequestration", the process of capturing and storing atmospheric
59 carbon dioxide through biologic, chemical, geologic, or physical processes;

60 (16) "Climate commitment", the process and mechanisms to ensure a
61 coordinated and strategic approach to advancing climate resilience and
62 environmental justice and achieving an equitable and inclusive transition to a carbon
63 neutral economy;

64 (17) "Climate resilience", the ongoing process of anticipating, preparing for, and
65 adapting to changes in climate and minimizing negative impacts to the state's natural
66 systems, infrastructure, and communities. For natural systems, increasing climate
67 resilience involves restoring and increasing the health, function, and integrity of the
68 state's ecosystems and improving the ability of natural systems to absorb and recover
69 from climate-affected disturbances. For communities, increasing climate resilience
70 means enhancing the ability of communities to understand, prevent, adapt, and recover
71 from climate impacts to people and infrastructure;

72 (18) "Closed facility", a facility at which the current owner or operator has
73 elected to permanently stop production and will no longer be an emissions source;

74 (19) "Compliance instrument", an allowance or offset credit issued by the
75 department or by an external greenhouse gas emissions trading program to which this
76 state has linked any greenhouse gas emissions cap and invest program adopted by this
77 state. One compliance instrument is equal to one metric ton of carbon dioxide
78 equivalent;

79 (20) "Compliance obligation", the requirement to submit to the department the
80 number of compliance instruments equivalent to a covered or opt-in entity's covered
81 emissions during the compliance period;

82 (21) "Compliance period", the four-year period for which the compliance
83 obligation is calculated for covered entities;

84 (22) "Cost burden", the impact on rates or charges to customers of electric
85 utilities in this state for the incremental cost of electricity service to serve load due to the
86 compliance cost for greenhouse gas emissions caused by the program. Cost burden

87 includes, but is not limited to, administrative costs from the utility's participation in the
88 program;

89 (23) "Covered department", any department of this state with any duties or
90 responsibilities imposed under sections 260.1111 to 260.1140;

91 (24) "Covered emissions", the emissions for which a covered entity has a
92 compliance obligation under section 260.1118;

93 (25) "Covered entity", a person that is designated by the department as subject
94 to sections 260.1116 to 260.1131;

95 (26) "Cumulative environmental health impact", the combined multiple
96 environmental harms and health impacts on a vulnerable population or
97 overburdened community;

98 (27) "Curtailed facility", a facility at which the owner or operator has
99 temporarily suspended production but for which the owner or operator maintains
100 operating permits and retains the option to resume production if conditions become
101 amenable;

102 (28) "Department", the department of natural resources;

103 (29) "Electricity importer":

104 (a) For electricity that is scheduled with a NERC e-tag to a final point of delivery
105 into a balancing authority area located entirely within this state, the electricity importer
106 is identified on the NERC e-tag as the purchasing-selling entity on the last segment of
107 the tag's physical path with the point of receipt located outside this state and the point of
108 delivery located inside this state;

109 (b) For facilities physically located outside this state with the first point of
110 interconnection to a balancing authority area located entirely within this state if the
111 electricity is not scheduled on a NERC e-tag, the electricity importer is the facility
112 operator or owner;

113 (c) For electricity imported through a centralized market, the electricity
114 importer shall be defined by rule consistent with the rules required under subdivision
115 (3) of subsection 1 of section 260.1118;

116 (d) For electricity from facilities allocated to serve retail electricity customers of
117 a multijurisdictional electric company, the electricity importer is the multijurisdictional
118 electric company;

119 (e) If the importer identified under paragraph (a) of this subsection is a federal
120 power marketing administration over which this state does not have jurisdiction, and
121 the federal power marketing administration has not voluntarily elected to comply with
122 the program, the electricity importer is the next purchasing-selling entity in the physical
123 path on the NERC e-tag, or if no additional purchasing-selling entity over which this

124 state has jurisdiction, the electricity importer is the electric utility that operates the state
125 transmission or distribution system, or the generation balancing authority;

126 (f) For electricity that is imported into the state by a federal power marketing
127 administration and sold to a public body or cooperative customer or direct service
128 industrial customer located in this state, the electricity importer is the federal marketing
129 administration;

130 (g) If the importer identified under paragraph (f) of this subsection has not
131 voluntarily elected to comply with the program, the electricity importer is the public
132 body or cooperative customer or direct service industrial customer; or

133 (h) For electricity from facilities allocated to a consumer-owned utility inside this
134 state from a multijurisdictional consumer-owned utility, the electricity importer is the
135 consumer-owned utility inside this state;

136 (30) "Emissions containment reserve allowance", a conditional allowance that is
137 withheld from sale at an auction by the department or its agent to secure additional
138 emissions reductions in the event prices fall below the emissions containment reserve
139 trigger price;

140 (31) "Emissions containment reserve trigger price", the price below which
141 allowances shall be withheld from sale by the department or its agent at an auction, as
142 determined by the department by rule;

143 (32) "Emissions threshold", the greenhouse gas emission level at or above which
144 a person has a compliance obligation;

145 (33) "Environmental benefits", activities that:

146 (a) Prevent or reduce existing environmental harms or associated risks that
147 contribute significantly to cumulative environmental health impacts;

148 (b) Prevent or mitigate impacts to overburdened communities or vulnerable
149 populations from, or support community response to, the impacts of environmental
150 harm; or

151 (c) Meet a community need formally identified to a covered department by an
152 overburdened community or vulnerable population that is consistent with the intent of
153 sections 260.1111 to 260.1140;

154 (34) "Environmental harm", the individual or cumulative environmental health
155 impacts and risks to communities caused by historic, current, or projected:

156 (a) Exposure to pollution, conventional or toxic pollutants, environmental
157 hazards, or other contamination in the air, water, and land;

158 (b) Adverse environmental effects, including exposure to contamination,
159 hazardous substances, or pollution that increase the risk of adverse environmental
160 health outcomes or create vulnerabilities to the impacts of climate change;

161 (c) Loss or impairment of ecosystem functions or traditional food resources or
162 loss of access to gather cultural resources or harvest traditional foods; or

163 (d) Health and economic impacts from climate change;

164 (35) "Environmental impacts", environmental benefits or environmental harms,
165 or the combination of environmental benefits and harms, resulting or expected to result
166 from a proposed action;

167 (36) "Environmental justice", the fair treatment and meaningful involvement of
168 all people regardless of race, color, national origin, or income with respect to the
169 development, implementation, and enforcement of environmental laws, rules, and
170 policies. Environmental justice includes addressing disproportionate environmental
171 and health impacts in all laws, rules, and policies with environmental impacts by
172 prioritizing vulnerable populations and over burdened communities, the equitable
173 distribution of resources and benefits, and eliminating harm;

174 (37) "Environmental justice assessment", the assessment described in and
175 required under subsection 4 of section 260.1113;

176 (38) "External greenhouse gas emissions trading program", a government
177 program, other than the program created under sections 260.1111 to 260.1140, that
178 restricts greenhouse gas emissions from sources outside of this state and that allows
179 emissions trading;

180 (39) "Facility", any physical property, plant, building, structure, source, or
181 stationary equipment located on one or more contiguous or adjacent properties in actual
182 physical contact or separated solely by a public roadway or other public right-of-way
183 and under common ownership or common control that emits or may emit any
184 greenhouse gas;

185 (40) "First jurisdictional deliverer", the owner or operator of an electric
186 generating facility in this state or an electricity importer;

187 (41) "General market participant", a registered entity that is not identified as a
188 covered entity or an opt-in entity that is registered in the program registry and intends
189 to purchase, hold, sell, or voluntarily retire compliance instruments;

190 (42) "Greenhouse gas", includes, but is not limited to:

191 (a) Carbon dioxide;

192 (b) Methane;

193 (c) Nitrous oxide;

194 (d) Hydrofluorocarbons;

195 (e) Perfluorocarbons;

196 (f) Sulfur hexafluoride; and

197 (g) Any other gas or gases designated by the department by rule;

198 **(43) "Highly impacted community", a community designated by the department**
199 **of health and senior services based on cumulative impact analyses required under state**
200 **law;**

201 **(44) "Holding limit", the maximum number of allowances that may be held for**
202 **use or trade by a registered entity at any one time;**

203 **(45) "Imported electricity", electricity generated outside this state with a final**
204 **point of delivery within this state. "Imported electricity":**

205 **(a) Includes, but is not limited to:**

206 **a. Electricity from an organized market such as the energy imbalance market;**

207 **b. Imports from linked jurisdictions, but such imports shall be construed as**
208 **having no emissions;**

209 **c. Electricity from a system that is marketed by a federal power marketing**
210 **administration;**

211 **d. For a multijurisdictional electric company, electricity other than electricity**
212 **from in-state facilities that contributes to a common system power pool. If a**
213 **multijurisdictional electric company has a cost allocation methodology approved by the**
214 **public service commission, the allocation of specific facilities to this state's retail load**
215 **shall be in accordance with that methodology; and**

216 **e. For a multijurisdictional consumer-owned utility, electricity from facilities**
217 **that contribute to a common system power pool that are allocated to a consumer-owned**
218 **utility inside this state as provided by a methodology approved by the governing board**
219 **of the consumer-owned utility; and**

220 **(b) Shall not be construed to include electricity imports of unspecified electricity**
221 **that are netted by exports of unspecified electricity to any jurisdiction not covered by a**
222 **linked program by the same entity within the same hour;**

223 **(46) "Leakage", a reduction in emissions of greenhouse gases within the state**
224 **that is offset by a directly attributable increase in greenhouse gas emissions outside the**
225 **state and outside the geography of another jurisdiction with a linkage agreement with**
226 **this state;**

227 **(47) "Limits", any greenhouse gas emissions reductions required by state law;**

228 **(48) "Linkage", a bilateral or multilateral decision under a linkage agreement**
229 **between greenhouse gas market programs to accept compliance instruments issued by a**
230 **participating jurisdiction to meet the obligations of regulated entities in a partner**
231 **jurisdiction and to otherwise coordinate activities to facilitate operation of a joint**
232 **market;**

233 **(49) "Linkage agreement", a nonbinding agreement that connects two or more**
234 **greenhouse gas market programs and articulates a mutual understanding of how the**

235 participating jurisdictions will work together to facilitate a connected greenhouse gas
236 market;

237 (50) "Linked jurisdiction", a jurisdiction with which this state has entered into a
238 linkage agreement;

239 (51) "Multijurisdictional consumer-owned utility", a consumer-owned utility
240 that provides electricity to member owners in this state and in one or more other states
241 in a contiguous service territory or from a common power system;

242 (52) "Multijurisdictional electric company", an investor-owned utility that
243 provides electricity to customers in this state and in one or more other states in a
244 contiguous service territory or from a common power system;

245 (53) "NERC e-tag", a North American electric reliability corporation (NERC)
246 energy tag representing transactions on the North American bulk electricity market
247 scheduled to flow between or across balancing authority areas;

248 (54) "Offset credit", a tradable compliance instrument that represents an
249 emissions reduction or emissions removal of one metric ton of carbon dioxide
250 equivalent;

251 (55) "Offset project", a project that reduces or removes greenhouse gases that
252 are not covered emissions as provided in the Missouri climate commitment act;

253 (56) "Offset protocols", a set of procedures and standards to quantify
254 greenhouse gas reductions or greenhouse gas removals achieved by an offset project;

255 (57) "Overburdened community":

256 (a) A geographic area where vulnerable populations face combined multiple
257 environmental harms and health impacts or risks due to exposure to environmental
258 pollutants or contaminants through multiple pathways that may result in significant
259 disparate adverse health outcomes or effects;

260 (b) "Overburdened community" includes, but is not limited to:

261 a. Highly impacted communities; and

262 b. Populations who may be exposed to environmental contaminants and
263 pollutants outside of the geographic area in which such populations reside based on the
264 populations' use of traditional or cultural foods and practices such as the use of
265 resources, access to which is protected under treaty rights in ceded areas, if those
266 exposures in conjunction with other exposures may result in disproportionately greater
267 risks including, but not limited to, risks of certain cancers or other adverse health effects
268 and outcomes; and

269 (c) Overburdened communities identified by the department may include the
270 same communities as those identified by the department through its process for
271 identifying overburdened communities under sections 260.1111 to 260.1140;

- 272 **(58) "Person", includes, but is not limited to:**
273 **(a) An owner or operator of a facility;**
274 **(b) A supplier; or**
275 **(c) An electric power entity;**
276 **(59) "Point of delivery", a point on the electricity transmission or distribution**
277 **system where a deliverer makes electricity available to a receiver, or available to serve**
278 **load. Such point may be an interconnection with another system or a substation where**
279 **the transmission provider's transmission and distribution systems are connected to**
280 **another system, or a distribution substation where electricity is imported into the state**
281 **over a multijurisdictional retail provider's distribution system;**
282 **(60) "Price ceiling unit", the units issued at a fixed price by the department for**
283 **the purpose of limiting price increases and funding further investments in greenhouse**
284 **gas reductions;**
285 **(61) "Program", the greenhouse gas emissions cap and invest program created**
286 **by and implemented as provided in the Missouri climate commitment act;**
287 **(62) "Program registry", the data system in which covered entities, opt-in**
288 **entities, and general market participants are registered and in which compliance**
289 **instruments are recorded and tracked;**
290 **(63) "Railroad company", every corporation, company, association, joint stock**
291 **association, partnership, or person, their lessees, trustees, or receivers appointed by any**
292 **court whatsoever, owning, operating, controlling, or managing any railroad or any cars**
293 **or other equipment used thereon or in connection therewith within this state;**
294 **(64) "Registered entity", a covered entity, opt-in entity, or general market**
295 **participant that has completed the process for registration in the program registry;**
296 **(65) "Resilience", the ability to prepare, mitigate and plan for, withstand,**
297 **recover from, more successfully adapt to adverse events and changing conditions, and**
298 **reorganize in an equitable manner that results in a new and better condition;**
299 **(66) "Retire", to permanently remove a compliance instrument such that the**
300 **compliance instrument may never be sold, traded, or otherwise used again;**
301 **(67) "Significant department action", the following actions as identified at the**
302 **beginning of a covered department's consideration of the significant department action**
303 **or at the time when an environmental justice assessment would normally be initiated in**
304 **conjunction with a department action:**
305 **(a) The development and adoption of administrative rules by covered**
306 **departments;**
307 **(b) The development and adoption of any new grant or loan program that a**
308 **covered department is explicitly authorized or required by statute to carry out;**

309 (c) A capital project, grant, or loan award by a covered department of at least
310 twelve million dollars or a transportation project, grant, or loan by a covered
311 department of at least fifteen million dollars;

312 (d) The submission of department request legislation to the office of the
313 governor or the office of administration for approval; and

314 (e) Any other department actions deemed significant by a covered department
315 consistent with subsection 4 of section 260.1113;

316 (68) "Specified source of electricity" or "specified source", a facility, unit, or
317 asset controlling supplier that is permitted to be claimed as the source of electricity
318 delivered. The reporting entity shall have either full or partial ownership in the facility
319 or a written power contract to procure electricity generated by that facility or unit or
320 from an asset controlling supplier at the time of entry into the transaction to procure
321 electricity;

322 (69) "Supplier", includes, but is not limited to:

323 (a) Suppliers that produce, import, or deliver, or any combination of producing,
324 importing, or delivering, a quantity of fuel products in this state that if completely
325 combusted, oxidized, or used in other processes would result in the release of greenhouse
326 gases in this state equivalent to or higher than the threshold established as provided
327 under subdivision (1) of subsection 4 of section 260.1139; and

328 (b) Suppliers of carbon dioxide that produce, import, or deliver a quantity of
329 carbon dioxide in this state that, if released, would result in emissions equivalent to or
330 higher than the threshold established as provided under subdivision (1) of subsection 4
331 of section 260.1139;

332 (70) "Unspecified source of electricity" or "unspecified source", a source of
333 electricity that is not a specified source at the time of entry into the transaction to
334 procure electricity;

335 (71) "Voluntary renewable reserve account", a holding account maintained by
336 the department from which allowances may be retired for voluntary renewable
337 electricity generation that is directly delivered to the state and has not and will not be
338 sold or used to meet any other mandatory requirements in the state or any other
339 jurisdiction on behalf of voluntary renewable energy purchasers or end users;

340 (72) "Vulnerable populations", includes, but is not limited to:

341 (a) Racial or ethnic minorities;

342 (b) Low-income populations;

343 (c) Populations disproportionately impacted by environmental harms; and

344 (d) Populations of workers experiencing environmental harms.

260.1112. 1. To ensure that the program created under sections 260.1116 to 260.1131 achieves reductions in criteria pollutants as well as greenhouse gas emissions in overburdened communities highly impacted by air pollution, the department shall:

(1) Identify overburdened communities through the department's process to identify overburdened communities under sections 260.1111 to 260.1140;

(2) Deploy an air monitoring network in overburdened communities to collect sufficient air quality data for the initial review and subsequent reviews of criteria pollutant reductions conducted under subsection 2 of this section; and

(3) Within the identified overburdened communities, analyze and determine which sources are the greatest contributors of criteria pollutants and develop a high priority list of significant emitters. Prior to listing any entity as a high priority emitter, the department shall notify that entity and share the data used to rank that entity as a high priority emitter and provide a period of at least sixty days for the covered entity to submit more recent data or other information relevant to the designation of that entity as a high priority emitter.

2. (1) Beginning two years after the effective date of sections 260.1111 to 260.1140 under subsection 8 of section 260.1140, and every two years thereafter, the department shall conduct a review to determine levels of criteria pollutants, as well as greenhouse gas emissions, in the overburdened communities identified under subsection 1 of this section. Such review shall also include an evaluation of initial and subsequent health impacts related to criteria pollution in overburdened communities. The department may conduct such evaluation jointly with the department of health and senior services.

(2) After such review determines the levels of criteria pollutants in an identified overburdened community, the department, in consultation with local air pollution control authorities, shall:

(a) Establish air quality targets to achieve air quality consistent with whichever is more protective for human health:

a. National ambient air quality standards established by the United States Environmental Protection Agency; or

b. The air quality experienced in neighboring communities that are not identified as overburdened;

(b) Identify the stationary and mobile sources that are the greatest contributors of those emissions that are either increasing or not decreasing;

(c) Achieve the reduction targets through adoption of emission control strategies or other methods;

37 **(d) Adopt, along with local air pollution control authorities, stricter air quality**
38 **standards, emission standards, or emissions limitations on criteria pollutants, consistent**
39 **with the authority of the department provided by state law, and may consider**
40 **alternative mitigation actions that would reduce criteria pollution by similar amounts;**
41 **and**

42 **(e) After adoption of the stricter air quality standards, emission standards, or**
43 **emissions limitations on criteria pollutants under paragraph (d) of this subdivision,**
44 **issue an enforceable order or the local air authority shall issue an enforceable order, as**
45 **authorized under subsection 2 of section 260.1140, as necessary to comply with the**
46 **stricter standards or limitations and the requirements of this section. The department**
47 **or local air authority shall initiate the process, including provision of notice to all**
48 **relevant affected permittees or registered sources and to the public, to adopt and**
49 **implement an enforceable order required under this subsection within six months of the**
50 **adoption of standards or limitations under paragraph (d) of this subsection.**

51 **(3) Actions imposed under this section shall not impose requirements on a**
52 **permitted stationary source that are disproportionate to the permitted stationary**
53 **source's contribution to air pollution compared to other permitted stationary sources**
54 **and other sources of criteria pollutants in the overburdened community.**

55 **3. An eligible facility sited after the effective date of this section that receives**
56 **allowances under section 260.1121 shall mitigate increases in the facility's emissions of**
57 **particulate matter in overburdened communities.**

58 **4. (1) The department shall create and adopt a supplement to the department's**
59 **community engagement plan developed under sections 260.1111 to 260.1140. The**
60 **supplement shall describe how the department will engage with overburdened**
61 **communities and vulnerable populations in:**

62 **(a) Identifying emitters in overburdened communities; and**

63 **(b) Monitoring and evaluating criteria pollutant emissions in such areas.**

64 **(2) The community engagement plan shall include methods for outreach and**
65 **communication with individuals who face barriers, language or otherwise, to**
66 **participation.**

260.1113. 1. Each year or biennium, as appropriate, when allocating moneys
2 **from the carbon emissions reduction fund created under section 260.1133, the climate**
3 **investment fund created under section 260.1134, or the air quality and health disparities**
4 **improvement fund created under section 260.1137, or administering grants or programs**
5 **funded by the funds, departments shall conduct an environmental justice assessment**
6 **consistent with the requirements of subsection 4 of this section and establish a minimum**
7 **of at least thirty-five percent and a goal of forty percent of total investments that**

8 provide direct and meaningful benefits to vulnerable populations within the boundaries
9 of overburdened communities through:

10 (1) The direct reduction of environmental burdens in overburdened
11 communities;

12 (2) The reduction of disproportionate, cumulative risk from environmental
13 burdens, including those associated with climate change;

14 (3) The support of community led project development, planning, and
15 participation costs; or

16 (4) Meeting a community need identified by the community that is consistent
17 with the intent of sections 260.1111 to 260.1140.

18 2. The allocation of funding under subsection 1 of this section shall adhere to the
19 following principles, additional to the requirements of subsection 6 of this section:

20 (1) Benefits and programs shall be directed to areas and targeted to vulnerable
21 populations and overburdened communities to reduce statewide disparities;

22 (2) Investments and benefits shall be made roughly proportional to the health
23 disparities that a specific community experiences, with a goal of eliminating the
24 disparities;

25 (3) Investments and programs shall focus on creating environmental benefits,
26 including eliminating health burdens, creating community and population resilience,
27 and raising the quality of life of those in the community; and

28 (4) Efforts shall be made to balance investments and benefits across the state and
29 within counties, local jurisdictions, and unincorporated areas as appropriate to reduce
30 disparities by location and to ensure efforts contribute to a reduction in disparities that
31 exist based on race or ethnicity, socioeconomic status, or other factors.

32 3. State departments allocating funds or administering grants or programs from
33 the carbon emissions reduction fund created under section 260.1133, the climate
34 investment fund created under section 260.1134, or the air quality and health disparities
35 improvement account created under section 260.1137 shall:

36 (1) Report annually to the environmental justice council created under section
37 260.1114 regarding progress toward meeting environmental justice and environmental
38 health goals;

39 (2) Consider recommendations by the environmental justice council; and

40 (3) If the department is not a covered department subject to the requirements of
41 sections 260.1111 to 260.1140, create and adopt a community engagement plan to
42 describe how the department will engage with overburdened communities and
43 vulnerable populations in allocating funds or administering grants or programs from

44 the climate investment fund. The plan shall include methods for outreach and
45 communication with those who face barriers, language or otherwise, to participation.

46 4. (1) (a) When considering a significant department action initiated after July
47 first of the second calendar year after the calendar year in which sections 260.1111 to
48 260.1140 become effective under subsection 8 of section 260.1140, a covered department
49 shall conduct an environmental justice assessment in accordance with this section to
50 inform and support the department's consideration of overburdened communities and
51 vulnerable populations when making decisions and to assist the department with the
52 equitable distribution of environmental benefits, the reduction of environmental harms,
53 and the identification and reduction of environmental and health disparities.

54 (b) A covered department shall aspire to complete the environmental justice
55 assessment for a significant department action without delaying the completion of the
56 underlying department action.

57 (2) (a) Consistent with significant department action, for the purpose of
58 preparing environmental justice assessments a covered department may deem actions
59 significant in iterative consultation with the environmental justice council and
60 interdepartmental work group established under section 260.1114. By July first of
61 the fourth calendar year after the calendar year in which sections 260.1111 to 260.1140
62 become effective under subsection 8 of section 260.1140, each covered department shall
63 consider such department's activities and identify and begin applying environmental
64 justice assessments to any actions that the department identifies as significant.
65 Significant department actions designated by a covered department under this
66 subsection shall be actions that may cause environmental harm or may affect the
67 equitable distribution of environmental benefits to an overburdened community or a
68 vulnerable population.

69 (b) In the identification of significant department actions, covered departments
70 shall consider guidance issued by the environmental justice council. Each covered
71 department shall periodically review and update its identified types of significant
72 department actions for which an environmental justice assessment is required under
73 this section and the relevant factors to the department's environmental justice
74 assessments that result from the unique mission, authorities, and priorities of the
75 department.

76 (3) By July first of the second calendar year after the calendar year in which
77 sections 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140,
78 and periodically thereafter, after an opportunity for public comment on its
79 determinations, each covered department shall:

80 **(a) Publish on its website the types of department actions that the department**
81 **has determined are significant department actions that require an environmental justice**
82 **assessment under this section;**

83 **(b) Provide notification of the determination of the types of significant**
84 **department actions in the Missouri Register; and**

85 **(c) Prepare an environmental justice assessment when considering a listed action**
86 **after publication of the list of any additional significant department actions identified**
87 **under paragraph (a) of this subdivision.**

88 **(4) The environmental justice assessment obligation of a covered department for**
89 **a significant department action under this section shall be deemed satisfied by the**
90 **completion by the covered department of a checklist developed by the covered**
91 **department that functions similar to any environmental checklist developed by the**
92 **department and that directs the covered department to at a minimum:**

93 **(a) Consider guidance prepared by the environmental justice council relating to**
94 **best practices on environmental justice assessments and when and how to use**
95 **cumulative environmental health impact analysis;**

96 **(b) Where applicable, use cumulative environmental health impact analysis,**
97 **such as an environmental health disparities map or other data that considers the effects**
98 **of a proposed action on overburdened communities and vulnerable populations;**

99 **(c) Identify overburdened communities and vulnerable populations who are**
100 **expected to be affected by the proposed action and the potential environmental and**
101 **health impacts;**

102 **(d) Summarize community input and describe how the covered department can**
103 **further involve overburdened communities and vulnerable populations in development**
104 **of the proposed action; and**

105 **(e) Describe options for the department to reduce, mitigate, or eliminate**
106 **identified probable impacts on overburdened communities and vulnerable populations**
107 **or provide a justification for not reducing, mitigating, or eliminating identified probable**
108 **impacts.**

109 **(5) (a) To obtain information for the purposes of assessments, a covered**
110 **department shall solicit feedback from members of overburdened communities and**
111 **vulnerable populations to assist in the accurate assessment of the potential impact of the**
112 **action and in developing the means to reduce or eliminate the impact on overburdened**
113 **communities and vulnerable populations.**

114 **(b) A covered department may include items in the checklist required under**
115 **subdivision (4) of this subsection that are not specified under subdivision (4) of this**
116 **subsection.**

117 (c) The completion of an environmental justice checklist under subdivision (4) of
118 this subsection is not required to be a comprehensive or an exhaustive examination of all
119 potential impacts of a significant department action and does not require a covered
120 department to conduct a novel quantitative or economic analysis of the proposed
121 significant department action.

122 (6) Based on the environmental justice assessment, each covered department
123 shall seek, to the extent legal and feasible and consistent with the underlying statute
124 being implemented, to reduce or eliminate the environmental harms and maximize the
125 environmental benefits created by the significant department action on overburdened
126 communities and vulnerable populations. Consistent with department authority,
127 mission, and statutory responsibilities, the covered department shall consider each of
128 the following methods for reducing environmental harms or equitably distributing
129 environmental benefits:

130 (a) Eliminating the disparate impact of environmental harms on overburdened
131 communities and vulnerable populations;

132 (b) Reducing cumulative environmental health impacts on overburdened
133 communities or vulnerable populations;

134 (c) Preventing the action from adding to the cumulative environmental health
135 impacts on overburdened communities or vulnerable populations;

136 (d) Providing equitable participation and meaningful engagement of vulnerable
137 populations and overburdened communities in the development of the significant
138 department action;

139 (e) Prioritizing equitable distribution of resources and benefits to overburdened
140 communities;

141 (f) Promoting positive workforce and job outcomes for overburdened
142 communities;

143 (g) Meeting community needs identified by the affected overburdened
144 community;

145 (h) Modifying substantive regulatory or policy requirements; and

146 (i) Any other mitigating techniques including, but not limited to, techniques
147 suggested by the environmental justice council or representatives of overburdened
148 communities and vulnerable populations.

149 (7) If the covered department determines it does not have the ability or authority
150 to avoid or reduce any estimated environmental harm of the significant department
151 action on overburdened communities and vulnerable populations or address the
152 distribution of environmental and health benefits, the department shall provide a clear
153 explanation of why it has made that determination and provide notice of that

154 explanation to members of the public who participated in the process for the significant
155 department action or the process for the environmental justice assessment and who
156 provided contact information to the department.

157 (8) In developing a process for conducting environmental justice assessments,
158 each covered department shall consider any guidance developed by the environmental
159 justice council under subsection 6 of this section.

160 (9) Actions occurring under chapter 254 shall not require an environmental
161 justice assessment under this section.

162 5. The obligation of a covered department to conduct an environmental justice
163 assessment under subsection 4 of this section for significant department actions does
164 not, by itself, trigger requirements in other provisions of state law governing state
165 environmental policies.

166 6. (1) With consideration of the guidelines issued by the environmental justice
167 council, and in iterative consultation with the council, each covered department shall
168 incorporate environmental justice principles into its decision processes for budget
169 development, making expenditures, and granting or withholding environmental
170 benefits. Through the incorporation of environmental justice principles into its
171 decision processes, including by conducting environmental justice assessments where
172 required under subsection 4 of this section, each covered department, to the extent
173 allowed by law and consistent with legislative appropriations, shall equitably distribute
174 funding and expenditures related to programs that address or may cause environmental
175 harms or provide environmental benefits towards overburdened communities and
176 vulnerable populations.

177 (2) Beginning on or before July first of the second calendar year after the
178 calendar year in which sections 260.1111 to 260.1140 become effective under subsection
179 8 of section 260.1140, each covered department shall, where practicable, take the
180 following actions when making expenditure decisions or developing budget requests to
181 the office of administration and the general assembly for programs that address or may
182 cause environmental harms or provide environmental benefits:

183 (a) Focus applicable expenditures on creating environmental benefits that are
184 experienced by overburdened communities and vulnerable populations, including
185 reducing or eliminating environmental harms; creating community and population
186 resilience; and improving the quality of life of overburdened communities and
187 vulnerable populations;

188 (b) Create opportunities for overburdened communities and vulnerable
189 populations to meaningfully participate in department expenditure decisions;

190 (c) Clearly articulate environmental justice goals and performance metrics to
191 communicate the basis for department expenditures;

192 (d) Consider a broad scope of grants and contracting opportunities that
193 effectuate environmental justice principles, including:

194 a. Community grants to monitor pollution;

195 b. Grants focused on building capacity and providing training for community
196 scientists and other staff;

197 c. Making technical assistance available for communities that may be new to
198 receiving department grant funding; and

199 d. Education and work readiness youth programs focused on infrastructure or
200 utility-related internships to develop career paths and leadership skills for youth; and

201 (e) Establish a goal of directing forty percent of grants and expenditures that
202 create environmental benefits to vulnerable populations and overburdened
203 communities.

204 (3) A covered department may adopt rules or guidelines for criteria and
205 procedures applicable to incorporating environmental justice principles in expenditure
206 decisions, granting or withholding benefits, and processes for budget development.

207 (4) In incorporating environmental justice principles into its decision processes
208 for budget development, making expenditures, and granting or withholding benefits,
209 each covered department shall consider any guidance developed by the environmental
210 justice council.

211 (5) A covered department shall not take actions or make expenditures under this
212 section that are inconsistent with or conflict with other statutes or with conditions or
213 limitations on the department's appropriations.

214 (6) If a covered department, due to the breadth of its programs and funding
215 opportunities, determines it is not practicable to take the actions listed under
216 subdivision (2) of this subsection for all applicable expenditure decisions and budget
217 requests developed, the covered department shall prioritize taking the actions listed
218 under subdivision (2) of this subsection for such budget requests and expenditure
219 decisions that are primarily directed at addressing environmental impacts. On or
220 before July first of the second calendar year after the calendar year in which sections
221 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140, each
222 covered department shall publish on its website the types of decision processes for
223 budget development, making expenditures, and granting or withholding environmental
224 benefits for which the department will take the actions listed under subdivision (2) of
225 this subsection.

226 7. (1) On or before January first of the second calendar year after the calendar
227 year in which sections 260.1111 to 260.1140 become effective under subsection 8 of
228 section 260.1140, each covered department shall include an environmental justice
229 implementation plan within its strategic plan. A covered department may additionally
230 incorporate an environmental justice implementation plan into other significant agency
231 planning documents. The plan shall describe how the covered department plans to
232 apply the principles of environmental justice to the department's activities and shall
233 guide the department in its implementation of its obligations under sections 260.1111 to
234 260.1140.

235 (2) In its environmental justice implementation plan, each covered department
236 shall include:

237 (a) Department-specific goals and actions to reduce environmental and health
238 disparities and for otherwise achieving environmental justice in the department's
239 programs;

240 (b) Metrics to track and measure accomplishments of the department goals and
241 actions;

242 (c) Methods to embed equitable community engagement with, and equitable
243 participation from, members of the public into department practices for soliciting and
244 receiving public comment;

245 (d) Strategies to ensure compliance with existing federal and state laws and
246 policies relating to environmental justice;

247 (e) The plan for community engagement required under subsection 8 of this
248 section; and

249 (f) Specific plans and timelines for incorporating environmental justice
250 considerations into department activities as required under sections 260.1111 to
251 260.1140.

252 (3) In developing and updating its plan, each covered department shall consider
253 any guidance developed by the council under section 260.1114.

254 8. (1) On or before July first of the calendar year after the calendar year in
255 which sections 260.1111 to 260.1140 become effective under subsection 8 of section
256 260.1140, each covered department shall create and adopt a community engagement
257 plan that describes how the department will engage with overburdened communities
258 and vulnerable populations as the department evaluates new and existing activities and
259 programs. Such plan shall describe how the department plans to facilitate equitable
260 participation and support meaningful and direct involvement of vulnerable populations
261 and overburdened communities. Such plan shall include:

262 (a) How the covered department will identify and prioritize overburdened
263 communities for purposes of sections 260.1111 to 260.1140;

264 (b) Best practices for outreach and communication to overcome barriers to
265 engagement with overburdened communities and vulnerable populations;

266 (c) Use of special screening tools that integrate environmental, demographic, and
267 health disparities data, such as the environmental health disparities map, to evaluate
268 and understand the nature and needs of the people who the department expects to be
269 impacted by significant department actions under subsection 4 of this section and
270 processes under subsection 6 of this section to overcome barriers to participation;

271 (d) Processes that facilitate and support the inclusion of members of
272 communities affected by agency decision making including, to the extent legal and
273 practicable but not limited to, child care and reimbursement for travel and other
274 expenses; and

275 (e) Methods for outreach and communication with those who face barriers,
276 language or otherwise, to participation.

277 (2) Covered departments shall regularly review their compliance with existing
278 laws and policies that guide community engagement and shall comply with the
279 following:

280 (a) Title VI of the federal Civil Rights Act, prohibiting discrimination based on
281 race, color, or national origin and requiring meaningful access to people with limited
282 English proficiency, and disability; and

283 (b) Guidance related to Executive Order No. 13166 (65 F.R. 50121) requiring
284 meaningful access to agency programs and services for people with limited English
285 proficiency.

286 (3) In developing and updating its plan, each covered department shall consider
287 any guidance developed by the environmental justice council under 260.1114.

288 9. (1) On or before September first of each year, each covered department shall
289 annually update the environmental justice council on the development and
290 implementation of environmental justice in department strategic plans under
291 subsection 7 of this section, budgeting and funding criteria for making budgeting and
292 funding decisions under subsection 6 of this section, and community engagement plans
293 under subsection 8 of this section.

294 (2) (a) Beginning in the third calendar year after the calendar year in which
295 sections 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140, as
296 part of each covered department's annual update to the environmental justice council
297 under subsection 1 of this section, each covered department shall include updates on the

298 department's implementation status with respect to the environmental justice
299 assessments under subsection 4 of this section.

300 (b) On or before September first of each year beginning in the third calendar
301 year after the calendar year in which sections 260.1111 to 260.1140 become effective
302 under subsection 8 of section 260.1140, each covered department shall publish or update
303 a dashboard report, in a uniform dashboard format on the office of administration's
304 website, describing the department's progress on:

305 a. Incorporating environmental justice in its strategic plan;

306 b. The obligations of departments relating to budgets and funding under
307 subsection 6 of this section; and

308 c. The department's environmental justice assessments of proposed significant
309 department actions, including logistical metrics related to covered department
310 completion of environmental justice assessments.

311 (3) Each covered department shall file a notice with the office of administration
312 that the department is initiating an environmental justice assessment under subsection 4
313 of this section. The office of administration shall prepare a list of all filings received
314 from covered departments each week and shall post the list on its website and make it
315 available to any interested parties. The list of filings shall include a brief description of
316 the significant department action and the methods for providing public comment for
317 department consideration as part of the environmental justice assessment.

318 (4) Each covered department shall identify overburdened communities, as
319 required by subsection 8 of this section, in such a way that the performance effectiveness
320 of the duties created by sections 260.1111 to 260.1140 can be measured, including the
321 effectiveness of environmental justice assessments required by subsection 4 of this
322 section. Each covered department may identify and prioritize overburdened
323 communities as needed to accomplish the purposes of sections 260.1111 to 260.1140.

324 10. (1) In consultation with the environmental justice council, the department
325 shall continue to develop and maintain an environmental health disparities map with
326 the most current available information necessary to identify cumulative environmental
327 health impacts and overburdened communities. The department may also consult with
328 other interested partners, such as the University of Missouri, other academic partners,
329 members of overburdened communities and vulnerable populations, and other agencies.
330 The environmental health disparities map shall include tools to:

331 (a) Track changes in environmental health disparities over time in an
332 interactive, regularly updated display; and

333 (b) Measure the link between overall environmental health disparity map ranks;
334 environmental data; vulnerable populations characteristics, such as race and income;
335 and human health data.

336 (2) In further developing and maintaining the environmental health disparities
337 map, the department shall:

338 (a) Solicit feedback from representatives from overburdened communities and
339 vulnerable populations through community engagement and listening sessions in all
340 regions of the state and provide opportunities for public comment; and

341 (b) Request assistance from:

342 a. State universities;

343 b. Other academic researchers to perform modeling and create evidence-based
344 indicators and to conduct sensitivity analyses to assess the impact of new indicators on
345 communities and determinations of overburdened communities; and

346 c. Other state departments to provide applicable statewide environmental and
347 sampling data for air, water, soil, polluted sites, toxic waste, pesticides, toxic chemicals,
348 and other applicable media.

349 (3) The department shall:

350 (a) Document and publish a summary of the regular updates and revisions to the
351 environmental health disparities map that happen over time as the new data becomes
352 available in order to help the public understand different versions of the map as they are
353 published;

354 (b) At least every three years, perform a comprehensive evaluation of the map to
355 ensure that the most current modeling and methods available to evaluate cumulative
356 environmental health impacts are being used to develop and update the environmental
357 health disparities map's indicators;

358 (c) Develop technical guidance for departments that includes an online training
359 video detailing a description of how to use the environmental health disparities map's
360 features, access source data, and an explanation of map and indicator limitations; and

361 (d) Provide support and consultation to departments on the use of the
362 environmental health disparities map.

363 (4) (a) On or before November first of the calendar year after the calendar year
364 in which sections 260.1111 to 260.1140 become effective under subsection 8 of section
365 260.1140, the department shall request the University of Missouri's institute for public
366 policy to conduct a technical review of the measures and methods used in the
367 environmental health disparities map. The review shall, to the extent practicable,
368 address the following:

369 **a. Identify how the measures used in the map compare to measures used in other**
370 **similar tools that aim to identify communities that are disproportionately impacted as a**
371 **result of environmental justice issues;**

372 **b. Compare characteristics such as the reliability, validity, and clinical**
373 **importance of individual and composite measures included in the map and other**
374 **similar tools; and**

375 **c. Compare methodologies used in the map to statistical methodologies used in**
376 **other similar tools.**

377 **(b) The department of health and senior services and the University of Missouri**
378 **shall provide technical documentation regarding current methods to the institute for**
379 **public policy and shall consult with the institute as needed to ensure that the institute**
380 **has adequate information to complete the technical review.**

381 **(c) On or before November first of the calendar year after the calendar year in**
382 **which sections 260.1111 to 260.1140 become effective under subsection 8 of section**
383 **260.1140, the department shall submit the institute's report on the findings to the office**
384 **of the governor, the appropriate committees of the general assembly, and the**
385 **environmental justice council.**

260.1114. 1. (1) The environmental justice council is hereby established to
2 **advise covered departments on incorporating environmental justice into department**
3 **activities.**

4 **(2) The environmental justice council shall consist of fourteen members**
5 **appointed by the governor. The council members shall be individuals who are well-**
6 **informed about and committed to the principles of environmental justice and who, to**
7 **the greatest extent practicable, represent diversity in race, ethnicity, age, and gender;**
8 **urban and rural areas; and different regions of the state. The members of the council**
9 **shall elect two members to serve as cochairs for two-year terms. The council shall**
10 **include at least:**

11 **(a) a. Seven community representatives, the nominations of which are based**
12 **upon applied and demonstrated work and focus on environmental justice or a related**
13 **field, such as racial or economic justice, and accountability to vulnerable populations**
14 **and overburdened communities;**

15 **b. One of such community representatives shall be a youth representative**
16 **between eighteen and twenty-five years of age at the time of appointment. The youth**
17 **representative shall serve a two-year term;**

18 **c. The remaining six community representatives shall serve four-year terms,**
19 **with four representatives initially being appointed to four-year terms and two being**

20 initially appointed to two-year terms, after which they will be appointed to four-year
21 terms;

22 (b) Two representatives who are environmental justice practitioners or
23 academics to serve as environmental justice experts, the nominations of which are
24 based upon applied and demonstrated work and focus on environmental justice;

25 (c) One representative of a business that is regulated by a covered department
26 and whose ordinary business conditions are significantly affected by the actions of at
27 least one other covered department; and

28 (d) One representative who is a member or officer of a union representing
29 workers in the building and construction trades; and

30 (e) One representative at large, the nomination of which is based upon applied
31 and demonstrated work and focus on environmental justice.

32 (3) Covered departments shall serve as nonvoting, ex officio liaisons to the
33 council. Each covered department shall identify an executive team level staff person to
34 participate on behalf of the department.

35 (4) Nongovernmental members of the council shall be compensated and
36 reimbursed in accordance with state law.

37 (5) The department of health and senior services shall:

38 (a) Hire a manager who is responsible for overseeing all staffing and
39 administrative duties in support of the council; and

40 (b) Provide all administrative and staff support for the council.

41 (6) In collaboration with the office of administration, the environmental justice
42 council, and covered departments, the department of health and senior services shall:

43 (a) Establish standards for the collection, analysis, and reporting of
44 disaggregated data as it pertains to tracking population level outcomes of communities;

45 (b) Create statewide and department-specific process and outcome measures to
46 show performance:

47 a. Using outcome-based methodology to determine the effectiveness of
48 department programs and services on reducing environmental disparities; and

49 b. Taking into consideration community feedback from the environmental
50 justice council on whether the performance measures established accurately measure
51 the effectiveness of covered department programs and services in the communities
52 served; and

53 (c) Create an online performance dashboard to publish performance measures
54 and outcomes as required under sections 260.1111 to 260.1140 for the state and each
55 covered department.

56 (7) The department of health and senior services shall coordinate with the office
57 of administration to address cybersecurity and data protection for all data collected by
58 the department.

59 (8) (a) With input and assistance from the environmental justice council, the
60 department of health and senior services shall establish an interdepartmental work group
61 to assist covered departments in incorporating environmental justice into department
62 decision making. The work group shall include staff from each covered department
63 directed to implement environmental justice provisions under sections 260.1111 to
64 260.1140 and may include members from the environmental justice council. The
65 department of health and senior services shall provide assistance to the
66 interdepartmental work group by:

67 a. Facilitating information sharing among covered departments on
68 environmental justice issues and between departments and the environmental justice
69 council;

70 b. Developing and providing assessment tools for covered departments to use in
71 the development and evaluation of department programs, services, policies, and
72 budgets;

73 c. Providing technical assistance and compiling and creating resources for
74 covered departments to use; and

75 d. Training covered department staff on effectively using data and tools for
76 environmental justice assessments.

77 (b) The duties of the interdepartmental work group include, but are not limited
78 to:

79 a. Providing technical assistance to support department compliance with the
80 implementation of environmental justice into their strategic plans, environmental
81 justice obligations for budgeting and funding criteria and decisions, environmental
82 justice assessments, and community engagement plans;

83 b. Assisting the environmental justice council in developing a suggested schedule
84 and time line for sequencing the types of:

85 (i) Funding and expenditure decisions subject to rules; and

86 (ii) Criteria incorporating environmental justice principles;

87 c. Identifying other policies, priorities, and projects for the environmental
88 justice council's review and guidance development;

89 d. Identifying goals and metrics that the environmental justice council may use
90 to assess department performance in meeting the requirements of sections 260.1111 to
91 260.1140 for purposes of communicating progress to the public, the governor, and the
92 general assembly; and

93 e. Developing the guidance under paragraph (c) of subdivision (9) of this
94 subsection in coordination with the council.

95 (9) The council has the following powers and duties:

96 (a) To provide a forum for the public to:

97 a. Provide written or oral testimony on environmental justice concerns;

98 b. Assist the council in understanding environmental justice priorities across the
99 state in order to develop council recommendations to departments for issues to
100 prioritize; and

101 c. Identify which departments to contact with specific environmental justice
102 concerns and questions;

103 (b) The environmental justice council shall work in an iterative fashion with the
104 interdepartmental work group to develop guidance for environmental justice
105 implementation into covered department strategic plans under subsection 7 of section
106 260.1113, environmental justice assessments under subsection 4 of section 260.1113,
107 budgeting and funding criteria for making budgeting and funding decisions under
108 subsection 6 of section 260.1113, and community engagement plans under subsection 8
109 of section 260.1113. The environmental justice council and interdepartmental work
110 group shall regularly update its guidance;

111 (c) In consultation with the interdepartmental work group, the environmental
112 justice council:

113 a. Shall provide guidance to covered departments on developing environmental
114 justice assessments under subsection 4 of section 260.1113 for significant department
115 actions;

116 b. Shall make recommendations to covered departments on which department
117 actions may cause environmental harm or may affect the equitable distribution of
118 environmental benefits to an overburdened community or a vulnerable population and
119 therefore should be considered significant department actions that require an
120 environmental justice assessment under subsection 4 of section 260.1113;

121 c. Shall make recommendations to covered departments:

122 (i) On the identification and prioritization of overburdened communities under
123 sections 260.1111 to 260.1140; and

124 (ii) Related to the use by covered departments of the environmental and health
125 disparities map in department efforts to identify and prioritize overburdened
126 communities;

127 d. May make recommendations to a covered department on the timing and
128 sequencing of a covered departments' efforts to implement subsections 4 to 8 of section
129 260.1113; and

130 e. May make recommendations to the governor and the general assembly
131 regarding ways to improve department compliance with the requirements of sections
132 260.1111 to 260.1140;

133 (d) On or before December first of the calendar year after the calendar year in
134 which sections 260.1111 to 260.1140 become effective under subsection 8 of section
135 260.1140, and biennially thereafter, and with consideration of the information shared on
136 September first each year in covered departments' annual updates to the environmental
137 justice council required under subsection 9 of section 260.1113, the council shall:

138 a. Evaluate the progress of each department in applying environmental justice
139 council guidance, and update guidance as needed; and

140 b. Communicate each covered department's progress to the public, the governor,
141 and the general assembly. Such communication is not required to be a report and may
142 take the form of a presentation or other format that communicates the progress of the
143 state and its departments in meeting the state's environmental justice goals in
144 compliance with sections 260.1111 to 260.1140 and summarizing the work of the
145 environmental justice council under this subdivision and subdivision (11) of this
146 subsection.

147 (10) On or before November thirtieth of the calendar year after the calendar
148 year in which sections 260.1111 to 260.1140 become effective under subsection 8 of
149 section 260.1140, the environmental justice council shall submit a report to the governor
150 and the appropriate committees of the house of representatives and the senate on:

151 (a) The council's recommendations to covered departments on the identification
152 of significant department actions requiring an environmental justice assessment under
153 subparagraph b. of paragraph (c) of subdivision (9) of this subsection;

154 (b) The summary of covered department progress reports provided to the
155 council under subdivision (1) of subsection 9 of section 260.1113, including the status of
156 department plans for performing environmental justice assessments required by
157 subsection 4 of section 260.1113; and

158 (c) Guidance for environmental justice implementation into covered department
159 strategic plans, environmental justice assessments, budgeting and funding criteria, and
160 community engagement plans under subparagraph a. of paragraph (c) of subdivision (9)
161 of this subsection.

162 (11) The council may:

163 (a) Review incorporation of environmental justice implementation plans into
164 covered department strategic plans under subsection 7 of section 260.1113,
165 environmental justice assessments under subsection 4 of section 260.1113, budgeting
166 and funding criteria for making budgeting and funding decisions under subsection 6 of

167 section 260.1113, and community engagement plans under subsection 8 of section
168 260.1113;

169 (b) Make recommendations for amendments to sections 260.1111 to 260.1140 or
170 other legislation to promote and achieve the environmental justice goals of the state;

171 (c) Review existing laws and make recommendations for amendments that will
172 further environmental justice;

173 (d) Recommend to specific departments that they create environmental justice-
174 focused, department-requested legislation;

175 (e) Provide requested assistance to state departments other than covered
176 departments that wish to incorporate environmental justice principles into department
177 activities; and

178 (f) Recommend funding strategies and allocations to build capacity in vulnerable
179 populations and overburdened communities to address environmental justice.

180 (12) The role of the environmental justice council is purely advisory and council
181 decisions are not binding on any department, individual, or organization.

182 (13) The department of health and senior services shall convene the first meeting
183 of the environmental justice council by January first of the calendar year after the
184 calendar year in which sections 260.1111 to 260.1140 become effective under subsection
185 8 of section 260.1140.

186 (14) All environmental justice council meetings are subject to chapter 610 and a
187 public comment period shall be provided at every meeting of the council.

188 2. The environmental justice council shall provide recommendations to the
189 general assembly, departments, and the governor in the development and
190 implementation of the program established under sections 260.1111 to 260.1140 and
191 the programs funded from the carbon emissions reduction fund created under section
192 260.1133 and from the climate investment fund created under section 260.1134.

193 3. In addition to the duties and authorities granted under subsection 1 of this
194 section, the environmental justice council shall:

195 (1) Provide recommendations to the general assembly, departments, and the
196 governor in the development of:

197 (a) The program established under sections 260.1111 to 260.1140 including, but
198 not limited to, linkage with other jurisdictions, protocols for establishing offset projects
199 and securing offset credits, designation of emissions-intensive and trade-exposed
200 industries under section 260.1121, and administration of allowances under the program;
201 and

202 (b) Investment plans and funding proposals for the programs funded from the
203 climate investment fund created under section 260.1134 for the purpose of providing

204 **environmental benefits and reducing environmental health disparities within**
205 **overburdened communities;**

206 **(2) Provide a forum to analyze policies adopted under sections 260.1111 to**
207 **260.1140 to determine if the policies lead to improvements within overburdened**
208 **communities;**

209 **(3) Recommend procedures and criteria for evaluating programs, activities, or**
210 **projects;**

211 **(4) Recommend co-pollutant emissions reduction goals in overburdened**
212 **communities;**

213 **(5) Evaluate the level of funding provided to assist vulnerable populations, low-**
214 **income individuals, and impacted workers and the funding of projects and activities**
215 **located within or benefitting overburdened communities;**

216 **(6) Recommend environmental justice and environmental health goals for**
217 **programs, activities, and projects funded from the climate investment account, and**
218 **review department annual reports on outcomes and progress toward meeting such**
219 **goals;**

220 **(7) Provide recommendations to implementing departments for meaningful**
221 **consultation with vulnerable populations, including community engagement plans**
222 **under sections 260.1112 to 260.1113; and**

223 **(8) Recommend how to support public participation through capacity grants for**
224 **participation.**

260.1115. 1. The governor shall establish a governance structure to implement
2 **the state's climate commitment under the authority provided under sections 260.1111 to**
3 **260.1140 and other statutory authority to provide accountability for achieving any**
4 **greenhouse gas limits established under subsection 7 of section 260.1116, to establish a**
5 **coordinated and strategic statewide approach to climate resilience, to build an equitable**
6 **and inclusive clean energy economy, and to ensure that the state provides clear policy**
7 **and requirements, financial tools, and other mechanisms to support achieving such**
8 **limits.**

9 **2. The governance structure for implementing the state's climate commitment**
10 **shall:**

11 **(1) Be holistic and address the needs, challenges, and opportunities to meet the**
12 **climate commitment;**

13 **(2) Address emission reductions from all relevant sectors and sources by**
14 **ensuring that emitters are responsible for meeting targeted greenhouse gas reductions**
15 **and that the state provides clear policy and requirements, financial tools, and other**
16 **mechanisms to support achieving such reductions;**

17 **(3) Support an equitable transition for vulnerable populations and**
18 **overburdened communities, including through early and meaningful engagement of**
19 **overburdened communities and workers to ensure the program achieves equitable and**
20 **just outcomes;**

21 **(4) Build increasing climate resilience for at-risk communities and ecosystems**
22 **through cross-sectoral coordination, strategic planning, and cohesive policies; and**

23 **(5) Apply the most current, accurate, and complete scientific and technical**
24 **information available to guide the state's climate actions and strategies.**

25 **3. The governance structure for implementing the state's climate commitment**
26 **shall include, but not be limited to, the following elements:**

27 **(1) A strategic plan for aligning existing law, rules, policies, programs, and plans**
28 **with the state's greenhouse gas limits, to the full extent allowed under existing authority;**

29 **(2) Common state policies, standards, and procedures for addressing greenhouse**
30 **gas emissions and climate resilience, including grant and funding programs,**
31 **infrastructure investments, and planning and siting decisions;**

32 **(3) A process for prioritizing and coordinating funding consistent with strategic**
33 **needs for greenhouse gas reductions, equity and environmental justice, and climate**
34 **resilience actions;**

35 **(4) An updated statewide strategy for addressing climate risks and improving**
36 **resilience of communities and ecosystems;**

37 **(5) A comprehensive community engagement plan that addresses and mitigates**
38 **barriers to engagement from vulnerable populations, overburdened communities, and**
39 **other historically or currently marginalized groups; and**

40 **(6) An analysis of gaps and conflicts in state law and programs, with**
41 **recommendations for improvements to state law.**

42 **4. The governor's office shall develop policy and budget recommendations to the**
43 **general assembly necessary to implement the state's climate commitment before the end**
44 **of the calendar year in which sections 260.1111 to 260.1140 become law in accordance**
45 **with the purpose, principles, and elements under subsections 1 to 3 of this section.**

46 **5. Nothing in this section shall be construed to establish or create legal authority**
47 **for the department or any other state department to enact, adopt, issue an order, or in**
48 **any way implement additional regulatory programs beyond what is provided for under**
49 **sections 260.1111 to 260.1140 and other state law.**

260.1116. 1. To ensure that greenhouse gas emissions are reduced by covered
2 **entities consistent with any limits established under subsection 7 of this section, the**
3 **department shall implement a cap on greenhouse gas emissions from covered entities**

4 and a program to track, verify, and enforce compliance through the use of compliance
5 instruments.

6 **2. The program shall consist of:**

7 **(1) Annual allowance budgets that limit emissions from covered entities, as**
8 **provided in this section and sections 260.1117 to 260.1118;**

9 **(2) Defining those entities covered by the program, and those entities that may**
10 **voluntarily opt into coverage under the program, as provided in this section and sections**
11 **260.1117 to 260.1118;**

12 **(3) Distribution of emission allowances, as provided under section 260.1120, and**
13 **through the allowance price containment provisions under sections 260.1124 and**
14 **260.1125;**

15 **(4) Providing for offset credits as a method for meeting a compliance obligation,**
16 **under section 260.1127;**

17 **(5) Defining the compliance obligations of covered entities, as provided under**
18 **section 260.1129;**

19 **(6) Establishing the authority of the department to enforce the program**
20 **requirements, as provided under section 260.1130;**

21 **(7) Creating a climate investment account for the deposit of receipts from the**
22 **distribution of emission allowances, as provided under section 260.1134;**

23 **(8) Providing for the transfer of allowances and recognition of compliance**
24 **instruments, including those issued by jurisdictions with which this state has linkage**
25 **agreements;**

26 **(9) Providing monitoring and oversight of the sale and transfer of allowances by**
27 **the department;**

28 **(10) Creating a price ceiling and associated mechanisms as provided under**
29 **section 260.1126; and**

30 **(11) Providing for the allocation of allowances to emissions-intensive, trade-**
31 **exposed industries under section 260.1121.**

32 **3. The department shall consider opportunities to implement the program in a**
33 **manner that allows linking the state's program with those of other jurisdictions. The**
34 **department shall evaluate whether such linkage will provide for a more cost-effective**
35 **means for covered entities to meet their compliance obligations in this state while**
36 **recognizing the special characteristics of the state's economy, communities, and**
37 **industries. The department may enter into a linkage agreement with another**
38 **jurisdiction after conducting an environmental justice assessment and after formal**
39 **notice and opportunity for a public hearing, and when consistent with the requirements**
40 **of section 260.1131.**

41 **4. On or before January thirty-first of the seventeenth year after the calendar**
42 **year in which sections 260.1111 to 260.1140 become effective under subsection 8 of**
43 **section 260.1140, the department shall bring forth department request legislation**
44 **developed in consultation with emissions-intensive, trade-exposed businesses, covered**
45 **entities, environmental advocates, and overburdened communities that outlines a**
46 **compliance pathway specific to emissions-intensive, trade-exposed businesses for**
47 **achieving their proportionate share of the state's emissions reduction limits through**
48 **the end of the forty-second year after the calendar year in which sections 260.1111 to**
49 **260.1140 become effective under subsection 8 of section 260.1140.**

50 **5. On or before December first of the sixth year after the calendar year in which**
51 **sections 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140**
52 **and at least every four years thereafter, the department shall submit a report to the**
53 **general assembly that includes a comprehensive review of the implementation of the**
54 **program to date including, but not limited to, outcomes relative to the state's emissions**
55 **reduction limits, overburdened communities, covered entities, and emissions-intensive,**
56 **trade-exposed businesses. The department shall transmit the report to the**
57 **environmental justice council at the same time it is submitted to the general assembly.**

58 **6. The department shall bring forth department request legislation if the**
59 **department finds that any provision of sections 260.1111 to 260.1140 prevents linking**
60 **this state's cap and invest program with that of any other jurisdiction.**

61 **7. (1) (a) The state shall limit anthropogenic emissions of greenhouse gases to**
62 **achieve the following emission reductions for this state:**

63 **a. On or before the end of the twelfth year after the calendar year in which**
64 **sections 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140,**
65 **reduce overall emissions of greenhouse gases in the state to 1990 levels, or ninety million**
66 **five hundred thousand metric tons;**

67 **b. On or before the end of the twenty-second year after the calendar year in**
68 **which sections 260.1111 to 260.1140 become effective under subsection 8 of section**
69 **260.1140, reduce overall emissions of greenhouse gases in the state to fifty million metric**
70 **tons, or forty-five percent below 1990 levels;**

71 **c. On or before the end of the thirty-second year after the calendar year in which**
72 **sections 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140,**
73 **reduce overall emissions of greenhouse gases in the state to twenty-seven million metric**
74 **tons, or seventy percent below 1990 levels; and**

75 **d. On or before the end of the forty-second year after the calendar year in which**
76 **sections 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140,**

77 reduce overall emissions of greenhouse gases in the state to five million metric tons, or
78 ninety-five percent below 1990 levels.

79 (b) On or before December first of the calendar year in which sections 260.1111
80 to 260.1140 become effective under subsection 8 of section 260.1140, the department
81 shall submit a greenhouse gas reduction plan for review and approval to the general
82 assembly, describing those actions necessary to achieve the emission reductions under
83 paragraph (a) of this subdivision by using existing statutory authority and any
84 additional authority granted by the general assembly. Actions taken using existing
85 statutory authority may proceed prior to approval of the greenhouse gas reduction plan.

86 (c) In addition to the emissions limits specified under paragraph (a) of this
87 subdivision, the state shall also achieve net zero greenhouse gas emissions on or before
88 the end of the forty-second year after the calendar year in which sections 260.1111 to
89 260.1140 become effective under subsection 8 of section 260.1140.

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

92 a. Develop and implement a system for monitoring and reporting emissions of
93 greenhouse gases as required under section 260.1139; and

94 b. Track progress toward meeting the emission reductions established in this
95 subsection, including the results from policies currently in effect that have been
96 previously adopted by the state and policies adopted in the future, and report on that
97 progress. Progress reporting shall include statewide emissions as well as emissions from
98 key sectors of the economy including, but not limited to, electricity, transportation,
99 buildings, manufacturing, and agriculture.

100 (e) This section shall not be construed to create any new or additional regulatory
101 authority for any state department as such department existed prior to the calendar
102 year in which sections 260.1111 to 260.1140 become effective under subsection 8 of
103 section 260.1140.

104 (2) On or before December thirty-first of each even-numbered year beginning
105 two years after the calendar year in which sections 260.1111 to 260.1140 become effective
106 under subsection 8 of section 260.1140, the department and the department of
107 commerce and insurance shall report to the governor and the appropriate committees of
108 the senate and house of representatives the total emissions of greenhouse gases for the
109 preceding two years, and totals in each major source sector, including emissions
110 associated with leaked gas identified by the public service commission. The report shall
111 include greenhouse gas emissions from wildfires. The department shall ensure the
112 reporting rules adopted under section 260.1139 allow the department to develop a

113 comprehensive inventory of emissions of greenhouse gases from all significant sectors of
114 the state's economy.

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

260.1117. 1. (1) The department shall commence the program on or before
2 January first two years after the calendar year in which sections 260.1111 to 260.1140
3 become effective under subsection 8 of section 260.1140 by determining an emissions
4 baseline establishing the proportionate share that the total greenhouse gas emissions of
5 covered entities for the first compliance period bears to the total anthropogenic
6 greenhouse gas emissions in the state during the second to sixth calendar years before
7 the calendar year in which sections 260.1111 to 260.1140 become effective under
8 subsection 8 of section 260.1140 based on data reported to the department under section
9 260.1139 or provided as required under sections 260.1111 to 260.1140, as well as other
10 relevant data. On or before October first of the calendar year following the calendar
11 year in which sections 260.1111 to 260.1140 become effective under subsection 8 of
12 section 260.1140, the department shall adopt annual allowance budgets for the second to
13 fifth calendar years after the calendar year in which sections 260.1111 to 260.1140
14 become effective under subsection 8 of section 260.1140, which shall be known as the
15 first compliance period of the program, to be distributed from January first of such
16 second year to December thirty-first of such fifth year. If the first compliance period is
17 delayed under subsection 7 of section 260.1129, the department shall adjust the annual
18 allowance budgets to reflect a shorter first compliance period.

19 (2) On or before October first of the fifth year after the calendar year in which
20 sections 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140,
21 the department shall add to its emissions baseline by incorporating the proportionate
22 share that the total greenhouse gas emissions of new covered entities in the second
23 compliance period bear to the total anthropogenic greenhouse gas emissions in the state
24 during the second to fourth calendar years after the calendar year in which sections
25 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140. In
26 determining the addition to the baseline, the department may exclude a year from the
27 determination if the department identifies that year to have been an outlier due to a
28 state of emergency. The department shall adopt annual allowance budgets for the sixth
29 to ninth calendar years after the calendar year in which sections 260.1111 to 260.1140
30 become effective under subsection 8 of section 260.1140, which shall be known as the

31 second compliance period of the program, that will be distributed from January first of
32 such sixth year to December thirty-first of such ninth year.

33 (3) On or before October first of the seventh calendar year after the calendar
34 year in which sections 260.1111 to 260.1140 become effective under subsection 8 of
35 section 260.1140, the department shall adopt by rule the annual allowance budgets for
36 the twenty-third to thirty-second calendar years after the calendar year in which
37 sections 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140.

38 2. The annual allowance budgets shall be set to achieve the share of reductions
39 by covered entities necessary to achieve the statewide emissions limits established under
40 subsection 7 of section 260.1116, based on data reported to the department under
41 chapter 643 or provided as required under sections 260.1111 to 260.1140. Annual
42 allowance budgets shall be set such that the use of offsets as compliance instruments,
43 consistent with section 260.1127, does not prevent the achievement of any emissions
44 limits established under subsection 7 of section 260.1116. In setting annual allowance
45 budgets, the department shall reduce the annual allowance budget relative to the limits
46 in an amount equivalent to offset use, or in accordance with a similar methodology
47 adopted by the department. The department shall adopt annual allowance budgets for
48 the program on a calendar year basis that provide for progressively equivalent
49 reductions year over year. An allowance distributed under the program, either directly
50 by the department under sections 260.1121 to 260.1123 or through auctions under section
51 260.1120, does not expire and may be held or banked consistent with subsection 6 of
52 section 260.1120 and subsection 1 of section 260.1125.

53 3. The department shall complete an evaluation on or before December thirty-
54 first of such sixth year after the calendar year in which sections 260.1111 to 260.1140
55 become effective under subsection 8 of section 260.1140 and on or before December
56 thirty-first of such fourteenth year after the calendar year in which sections 260.1111 to
57 260.1140 become effective under subsection 8 of section 260.1140 of the performance of
58 the program, including its performance in reducing greenhouse gases. If the evaluation
59 shows that adjustments to the annual allowance budgets are necessary for covered
60 entities to achieve their proportionate share of the emission reduction limits for the
61 twenty-second and thirty-second calendar years after the calendar year in which
62 sections 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140, as
63 applicable, the department shall adjust the annual allowance budgets accordingly. The
64 department shall complete additional evaluations of the performance of the program on
65 or before December thirty-first of the thirty-second calendar year after the calendar
66 year in which sections 260.1111 to 260.1140 become effective under subsection 8 of
67 section 260.1140 and on or before December thirty-first of the thirty-seventh calendar

68 year after the calendar year in which sections 260.1111 to 260.1140 become effective
69 under subsection 8 of section 260.1140 and make any necessary adjustments in the
70 annual allowance budgets to ensure that covered entities achieve their proportionate
71 share of the emission reduction limit under subparagraph d. of paragraph (a) of
72 subdivision (1) of subsection 7 of section 260.1116. Nothing in this subsection precludes
73 the department from making additional adjustments to annual allowance budgets as
74 necessary to ensure successful achievement of the proportionate emission reduction
75 limits by covered entities. The department shall determine and make public the
76 circumstances, metrics, and processes that would initiate the public consideration of
77 additional allowance budget adjustments to ensure successful achievement of the
78 proportionate emission reduction limits.

79 4. Data reported to the department under section 260.1139 or provided as
80 required under sections 260.1111 to 260.1140 for the second to sixth calendar years after
81 the calendar year in which sections 260.1111 to 260.1140 become effective under
82 subsection 8 of section 260.1140 is deemed sufficient for the purpose of adopting annual
83 allowance budgets and serving as the baseline by which covered entities demonstrate
84 compliance under the first compliance period of the program. Data reported to the
85 department under section 260.1139 or provided as required under sections 260.1111 to
86 260.1140 for the second to fourth calendar years after the calendar year in which
87 sections 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140 is
88 deemed sufficient for adopting annual allowance budgets and serving as the baseline by
89 which covered entities demonstrate compliance under the second compliance period of
90 the program.

91 5. The general assembly intends to promote a growing and sustainable economy
92 and to avoid leakage of emissions from manufacturing to other jurisdictions. Therefore,
93 the general assembly finds that implementation of this section is contingent upon the
94 enactment of section 260.1121.

260.1118. 1. A person is a covered entity as of the beginning of the first
2 compliance period and all subsequent compliance periods if the person reported
3 emissions under section 260.1139 for any calendar year from the second to sixth
4 calendar years before the effective date designated under subsection 8 of section
5 260.1140, or if additional data provided as required under sections 260.1111 to 260.1140
6 indicates that emissions for any calendar year from the second to sixth calendar years
7 before the calendar year in which sections 260.1111 to 260.1140 become effective under
8 subsection 8 of section 260.1140 equaled or exceeded any of the following thresholds, or
9 if the person is a first jurisdictional deliverer and imports electricity into the state
10 during the compliance period:

11 **(1) If the person owns or operates a facility and the facility's emissions equal or**
12 **exceed twenty-five thousand metric tons of carbon dioxide equivalent;**

13 **(2) If the person is a first jurisdictional deliverer and generates electricity in the**
14 **state and emissions associated with this generation equals or exceeds twenty-five**
15 **thousand metric tons of carbon dioxide equivalent;**

16 **(3) If the person is a first jurisdictional deliverer importing electricity into the**
17 **state and the cumulative annual total of emissions associated with the imported**
18 **electricity, whether from specified or unspecified sources, exceeds twenty-five thousand**
19 **metric tons of carbon dioxide equivalent. In consultation with any linked jurisdiction to**
20 **the program created under sections 260.1111 to 260.1140, on or before October first of**
21 **the fifth calendar year after the calendar year in which sections 260.1111 to 260.1140**
22 **become effective under subsection 8 of section 260.1140, the department, in consultation**
23 **with the department of commerce and insurance and the public service commission,**
24 **shall adopt by rule a methodology for addressing imported electricity associated with a**
25 **centralized electricity market;**

26 **(4) If the person is a supplier of fossil fuel other than natural gas and from that**
27 **fuel twenty-five thousand metric tons or more of carbon dioxide equivalent emissions**
28 **would result from the full combustion or oxidation, excluding the amounts for fuel**
29 **products that are produced or imported with a documented final point of delivery**
30 **outside of this state and combusted outside of this state; and**

31 **(5) (a) If the person supplies natural gas in amounts that would result in**
32 **exceeding twenty-five thousand metric tons of carbon dioxide equivalent emissions if**
33 **fully combusted or oxidized, excluding the amounts for fuel products that are produced**
34 **or imported with a documented final point of delivery outside of this state and**
35 **combusted outside of this state, and excluding the amounts:**

36 **a. Supplied to covered entities under subdivisions (1) to (4) of this subsection;**
37 **and**

38 **b. Delivered to opt-in entities;**

39 **(b) If the person who is not a natural gas company and has a tariff with a natural**
40 **gas company to deliver to an end-use customer in the state in amounts that would result**
41 **in exceeding twenty-five thousand metric tons of carbon dioxide equivalent emissions if**
42 **fully combusted or oxidized, excluding the amounts:**

43 **a. Supplied to covered entities under subdivisions (1) to (4) of this subsection;**
44 **and**

45 **b. The amounts delivered to opt-in entities;**

46 **(c) If the person is an end-use customer in the state who directly purchases**
47 **natural gas from a person that is not a natural gas company and has the natural gas**

48 delivered through an interstate pipeline to a distribution system owned by the purchaser
49 in amounts that would result in exceeding twenty-five thousand metric tons of carbon
50 dioxide equivalent emissions if fully combusted or oxidized, excluding the amounts:

51 a. Supplied to covered entities under subdivisions (1) to (4) of this subsection;
52 and

53 b. Delivered to opt-in entities.

54 2. A person is a covered entity as of the beginning of the second compliance
55 period and all subsequent compliance periods if the person reported emissions under
56 section 260.1139 or provided emissions data as required under sections 260.1111 to
57 260.1140 for the second to fourth calendar years after the calendar year in which
58 sections 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140,
59 where the person owns or operates a waste to energy facility utilized by a county and
60 city solid waste management program and the facility's emissions equal or exceed
61 twenty-five thousand metric tons of carbon dioxide equivalent.

62 3. (1) A person is a covered entity beginning January first of the twenty-third
63 calendar year after the calendar year in which sections 260.1111 to 260.1140 become
64 effective under subsection 8 of section 260.1140, and all subsequent compliance periods
65 if the person reported emissions under section 260.1139 or provided emissions data as
66 required under sections 260.1111 to 260.1140 for the sixth to eighth calendar years after
67 the calendar year in which sections 260.1111 to 260.1140 become effective under
68 subsection 8 of section 260.1140, where the person owns or operates a:

69 (a) Landfill utilized by a county and city solid waste management program and
70 the facility's emissions equal or exceed twenty-five thousand metric tons of carbon
71 dioxide equivalent; or

72 (b) Railroad company and the railroad company's emissions equal or exceed
73 twenty-five thousand metric tons of carbon dioxide equivalent.

74 (2) Subdivision (1) of this subsection does not apply to owners or operators of
75 landfills that:

76 (a) Capture at least seventy-five percent of the landfill gas generated by the
77 decomposition of waste using methods under 40 CFR Part 98, Subpart HH, as amended;
78 and

79 (b) Operate a program, individually or through partnership with another entity,
80 that results in the production of renewable natural gas or electricity from landfill gas
81 generated by the facility.

82 (3) It is the intent of the general assembly to adopt a greenhouse gas reduction
83 policy specific to landfills. If such a policy is not enacted on or before January first of
84 the twenty-second calendar year after the calendar year in which sections 260.1111 to

85 260.1140 become effective under subsection 8 of section 260.1140, the requirements of
86 this subsection shall apply beginning January first of the twenty-second calendar year
87 after the calendar year in which sections 260.1111 to 260.1140 become effective under
88 subsection 8 of section 260.1140.

89 4. When a covered entity reports, during a compliance period, emissions from a
90 facility under section 260.1139 that are below the thresholds specified under subsection
91 1 or 2 of this section, the covered entity continues to have a compliance obligation
92 through the current compliance period. When a covered entity reports emissions below
93 the threshold for each year during an entire compliance period, or has ceased all
94 processes at the facility requiring reporting under section 260.1139, the entity is no
95 longer a covered entity as of the beginning of the subsequent compliance period unless
96 the department provides notice at least twelve months before the end of the compliance
97 period that the facility's emissions were within ten percent of the threshold and that the
98 person will continue to be designated as a covered entity in order to ensure equity
99 among all covered entities. When a covered entity ceases to be a covered entity, the
100 department shall notify the appropriate policy and fiscal committees of the general
101 assembly of the name of the entity and the reason the entity is no longer a covered entity.

102 5. For types of emission sources described under subsection 1 of this section that
103 begin or modify operation after January first of the second calendar year after the
104 calendar year in which sections 260.1111 to 260.1140 become effective under subsection
105 8 of section 260.1140 and types of emission sources described under subsection 2 of this
106 section that begin or modify operation after the sixth calendar year after the calendar
107 year in which sections 260.1111 to 260.1140 become effective under subsection 8 of
108 section 260.1140, coverage under the program starts in the calendar year in which
109 emissions from the source exceed the applicable thresholds under subsection 1 or 2 of
110 this section, or upon formal notice from the department that the source is expected to
111 exceed the applicable emissions threshold, whichever happens first. Sources meeting
112 these conditions are required to transfer their first allowances on the first transfer
113 deadline of the year following the year in which their emissions were equal to or
114 exceeded the emissions threshold.

115 6. For emission sources described under subsection 1 of this section that are in
116 operation or otherwise active between the second to sixth calendar years before the
117 calendar year in which sections 260.1111 to 260.1140 become effective under subsection
118 8 of section 260.1140 but were not required to report emissions for those years under
119 section 260.1139 for the reporting periods between the second to sixth calendar years
120 before the calendar year in which sections 260.1111 to 260.1140 become effective under
121 subsection 8 of section 260.1140, coverage under the program starts in the calendar year

122 following the year in which emissions from the source exceed the applicable thresholds
123 under subsection 1 of this section as reported under section 260.1139 or provided as
124 required under sections 260.1111 to 260.1140, or upon formal notice from the
125 department that the source is expected to exceed the applicable emissions threshold
126 for the first year that source is required to report emissions, whichever happens first.
127 Sources meeting these criteria are required to transfer their first allowances on the first
128 transfer deadline of the year following the year in which their emissions, as reported
129 under section 260.1139 or provided as required under sections 260.1111 to 260.1140,
130 were equal to or exceeded the emissions threshold.

131 7. The following emissions are exempt from coverage in the program, regardless
132 of the emissions reported under section 260.1139 or provided as required under sections
133 260.1111 to 260.1140:

134 (1) Emissions from the combustion of aviation fuels;

135 (2) Emissions from watercraft fuels supplied in this state that are combusted
136 outside of this state;

137 (3) Emissions from a coal-fired electric generation facility exempted from
138 additional greenhouse gas limitations, requirements, or performance standards under
139 state law;

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

141 (5) Emissions from facilities with NAICS code 928110; and

142 (6) (a) Motor vehicle fuel or special fuel that is used exclusively for agricultural
143 purposes by a farm fuel user. The exemption provided under this subdivision shall be
144 available only if a buyer of motor vehicle fuel or special fuel provides the seller with an
145 exemption certificate in a form and manner prescribed by the department;

146 (b) The department shall determine a method for expanding the exemption
147 provided under paragraph (a) of this subdivision to include fuels used for the purpose of
148 transporting agricultural products on public highways. The department shall maintain
149 this expanded exemption for a period of five years, in order to provide the agricultural
150 sector with a feasible transition period;

151 (c) As used in this subdivision, the following terms mean:

152 a. "Agricultural purposes", the performance of activities directly related to the
153 growing, raising, or producing of agricultural products. "Agricultural purposes" shall
154 not be construed to include:

155 (i) Heating space for human habitation or water for human consumption; or

156 (ii) Transporting on public roads individuals, agricultural products, farm
157 machinery or equipment, or other tangible personal property, except when the

158 transportation is incidental to transportation on private property and the fuel used for
159 such transportation is not subject to tax under chapter 142;

160 b. "Farm fuel user", a farmer or person who provides horticultural services for
161 farmers, such as soil preparation services, crop cultivation services, and crop harvesting
162 services.

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

170 9. (1) The general assembly intends to promote a growing and sustainable
171 economy and to avoid leakage of emissions from manufacturing to other locations. The
172 general assembly further intends to see innovative new businesses locate and grow in
173 this state that contribute to this state's prosperity and environmental objectives.

174 (2) Consistent with the intent of the general assembly to avoid the leakage of
175 emissions to other jurisdictions, in achieving the greenhouse gas limits under subsection
176 7 of section 260.1116, the state, including lead agencies under the state's environmental
177 policy, shall pursue the limits in a manner that recognizes that the siting and placement
178 of new or expanded best-in-class facilities with lower carbon emitting processes is in the
179 economic and environmental interests of this state.

180 (3) In conducting a life-cycle analysis, if required, for new or expanded facilities
181 that require review under the state's environmental policy, a lead agency shall evaluate
182 and attribute any potential net cumulative greenhouse gas emissions resulting from the
183 project as compared to other existing facilities or best available technology including
184 best-in-class facilities and emerging lower carbon processes that supply the same
185 product or end use. The department may adopt rules to determine the appropriate
186 threshold for applying this analysis.

187 (4) Covered emissions from an entity that is or will be a covered entity under
188 sections 260.1111 to 260.1140 shall not be the basis for denial of a permit for a new or
189 expanded facility. Covered emissions shall be included in the analysis undertaken under
190 subdivision (3) of this subsection. Nothing in this subsection requires a lead agency or a
191 permitting department to approve or issue a permit to a permit applicant, including to a
192 new or expanded fossil fuel project.

193 (5) A lead agency under the state's environmental policy or a permitting
194 department shall allow a new or expanded facility that is a covered entity or opt-in

195 entity to satisfy a mitigation requirement for its covered emissions under sections
196 260.1111 to 260.1140 and under any greenhouse gas emission mitigation requirements
197 for covered emissions under the state's environmental policy by submitting to the
198 department the number of compliance instruments equivalent to its covered emissions
199 during a compliance period.

200 **260.1119. 1. All covered entities shall register to participate in the program,**
2 following procedures adopted by the department by rule.

3 **2. Entities registering to participate in the program shall describe any direct or**
4 indirect affiliation with other registered entities.

5 **3. A person responsible for greenhouse gas emissions that is not a covered entity**
6 **may voluntarily participate in the program by registering as an opt-in entity. An opt-in**
7 **entity shall satisfy the same registration requirements as covered entities. Once**
8 **registered, an opt-in entity may participate as a covered entity in auctions and shall**
9 **assume the same compliance obligation to transfer compliance instruments equal to**
10 **such entity's emissions at the appointed transfer dates. An opt-in entity may opt out of**
11 **the program at the end of any compliance period by providing written notice to the**
12 **department at least six months prior to the end of the compliance period. The opt-in**
13 **entity continues to have a compliance obligation through the current compliance period.**
14 **An opt-in entity is not eligible to receive allowances directly distributed under sections**
15 **260.1121 to 260.1123.**

16 **4. A person that is not covered by the program and is not a covered entity or opt-**
17 **in entity may voluntarily participate in the program as a general market participant.**
18 **General market participants shall meet all applicable registration requirements**
19 **specified by rule.**

20 **5. Federally recognized tribes and federal agencies may elect to participate in the**
21 **program as opt-in entities or general market participants.**

22 **6. The department shall use a secure, online electronic tracking system to:**

- 23 **(1) Register entities in the state program;**
24 **(2) Issue compliance instruments;**
25 **(3) Track ownership of compliance instruments;**
26 **(4) Enable and record compliance instrument transfers;**
27 **(5) Facilitate program compliance; and**
28 **(6) Support market oversight.**

29 **7. The department shall use an electronic tracking system that allows two**
30 **accounts to each covered or opt-in entity:**

31 **(1) A compliance account where the compliance instruments are transferred to**
32 **the department for retirement. Compliance instruments in compliance accounts shall**
33 **not be sold, traded, or otherwise provided to another account or person; and**

34 **(2) A holding account that is used when a registered entity is interested in**
35 **trading allowances. Allowances in holding accounts may be bought, sold, transferred to**
36 **another registered entity, or traded. The amount of allowances a registered entity may**
37 **have in its holding account is constrained by the holding limit as determined by the**
38 **department by rule. Information about the contents of each holding account including,**
39 **but not limited to, the number of allowances in the account, shall be displayed on a**
40 **regularly maintained and searchable public website established and updated by the**
41 **department.**

42 **8. Registered general market participants are each allowed an account, to hold,**
43 **trade, sell, or transfer allowances.**

44 **9. The department shall maintain an account for the purpose of retiring**
45 **allowances transferred by registered entities and from the voluntary renewable reserve**
46 **account.**

47 **10. The department shall maintain a public roster of all covered entities, opt-in**
48 **entities, and general market participants on the department's public website.**

49 **11. The department shall include a voluntary renewable reserve account.**

260.1120. 1. Except as provided under sections 260.1121 to 260.1123, the
2 **department shall distribute allowances through auctions as provided in this section and**
3 **in rules adopted by the department to implement these sections. An allowance is not a**
4 **property right.**

5 **2. (1) The department shall hold a maximum of four auctions annually, plus any**
6 **necessary reserve auctions. An auction may include allowances from the annual**
7 **allowance budget of the current year and allowances from the annual allowance budgets**
8 **from prior years that remain to be distributed. The department shall transmit to the**
9 **environmental justice council an auction notice at least sixty days prior to each auction,**
10 **as well as a summary results report and a postauction public proceeds report within**
11 **sixty days after each auction. The department shall communicate the results of the**
12 **previous calendar year's auctions to the environmental justice council on an annual**
13 **basis beginning in the third calendar year after the calendar year in which sections**
14 **260.1111 to 260.1140 become effective under subsection 8 of section 260.1140.**

15 **(2) The department shall make future vintage allowances available through**
16 **parallel auctions at least twice annually in addition to the auctions through which**
17 **current vintage allowances are exclusively offered under subdivision (1) of this**
18 **subsection.**

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

23 **4. (1) Auctions are open to covered entities, opt-in entities, and general market**
24 **participants that are registered entities in good standing. The department shall adopt**
25 **by rule the requirements for a registered entity to register and participate in a given**
26 **auction.**

27 **(2) Registered entities intending to participate in an auction shall submit an**
28 **application to participate at least thirty days prior to the auction. The application shall**
29 **include the documentation required for review and approval by the department. A**
30 **registered entity is eligible to participate only after receiving a notice of approval by the**
31 **department.**

32 **(3) Each registered entity that elects to participate in the auction shall have a**
33 **different representative. Only a representative with an approved auction account is**
34 **authorized to access the auction platform to submit an application or confirm the intent**
35 **to bid for the registered entity, submit bids on behalf of the registered entity during the**
36 **bidding window, or to download reports specific to the auction.**

37 **5. The department may require a bid guarantee, payable to the financial services**
38 **administrator, in an amount greater than or equal to the sum of the maximum value of**
39 **the bids to be submitted by the registered entity.**

40 **6. To protect the integrity of the auctions, a registered entity or group of**
41 **registered entities with a direct corporate association are subject to auction purchase**
42 **and holding limits. The department may impose the following additional limits if the**
43 **department deems it necessary to protect the integrity and functioning of the auctions:**

44 **(1) A covered entity or an opt-in entity shall not buy more than ten percent of the**
45 **allowances offered during a single auction;**

46 **(2) A general market participant shall not buy more than four percent of the**
47 **allowances offered during a single auction and shall not in aggregate own more than ten**
48 **percent of total allowances to be issued in a calendar year;**

49 **(3) No registered entity shall buy more than the entity's bid guarantee; and**

50 **(4) No registered entity shall buy allowances that would exceed the entity's**
51 **holding limit at the time of the auction.**

52 **7. (1) For the fiscal year ending on June thirtieth of the calendar year two years**
53 **after the calendar year in which sections 260.1111 to 260.1140 become effective under**
54 **subsection 8 of section 260.1140, upon completion and verification of the auction results,**

55 the financial services administrator shall notify winning bidders and transfer the
56 auction proceeds to the state treasurer for deposit as follows:

57 (a) One hundred twenty-seven million, three hundred forty-one thousand dollars
58 shall first be deposited into the carbon emissions reduction fund created under section
59 260.1133;

60 (b) The remaining auction proceeds to the climate investment fund created
61 under section 260.1134 and the air quality and health disparities improvement fund
62 created under section 260.1137.

63 (2) For the fiscal year ending on June thirtieth of the calendar year three years
64 after the calendar year in which sections 260.1111 to 260.1140 become effective under
65 subsection 8 of section 260.1140, upon completion and verification of the auction results,
66 the financial services administrator shall notify winning bidders and transfer the
67 auction proceeds to the state treasurer for deposit as follows:

68 (a) Three hundred fifty-six million, six hundred ninety-seven thousand dollars
69 shall first be deposited into the carbon emissions reduction fund created under section
70 260.1133; and

71 (b) The remaining auction proceeds to the climate investment fund created
72 under section 260.1134 and the air quality and health disparities improvement fund
73 created under section 260.1137.

74 (3) For the fiscal year ending on June thirtieth of the calendar year four years
75 after the calendar year in which sections 260.1111 to 260.1140 become effective under
76 subsection 8 of section 260.1140, upon completion and verification of the auction results,
77 the financial services administrator shall notify winning bidders and transfer the
78 auction proceeds to the state treasurer for deposit as follows:

79 (a) Three hundred sixty-six million, five hundred fifty-eight thousand dollars
80 shall first be deposited into the carbon emissions reduction fund created under section
81 260.1133; and

82 (b) The remaining auction proceeds to the climate investment fund created
83 under section 260.1134 and the air quality and health disparities improvement fund
84 created under section 260.1137.

85 (4) For the twelve fiscal years beginning on or after July first of the fifth
86 calendar year after the calendar year in which sections 260.1111 to 260.1140 become
87 effective under subsection 8 of section 260.1140 but ending on or before June thirtieth of
88 the sixteenth calendar year after the calendar year in which sections 260.1111 to
89 260.1140 become effective under subsection 8 of section 260.1140, upon completion and
90 verification of the auction results, the financial services administrator shall notify

91 **winning bidders and transfer the auction proceeds to the state treasurer for deposit as**
92 **follows:**

93 **(a) Three hundred fifty-nine million, one hundred seventeen thousand dollars**
94 **per year shall first be deposited into the carbon emissions reduction fund created under**
95 **section 260.1133; and**

96 **(b) The remaining auction proceeds to the climate investment fund created**
97 **under section 260.1134 and the air quality and health disparities improvement fund**
98 **created under section 260.1137.**

99 **(5) The deposits into the carbon emissions reduction account as provided under**
100 **subdivisions (1) to (4) of this subsection shall not exceed five billion, two hundred million**
101 **dollar over the first sixteen years and any remaining auction proceeds shall be deposited**
102 **into the climate investment fund created under section 260.1134 and the air quality and**
103 **health disparities improvement fund created under section 260.1137.**

104 **(6) For the fiscal year ending on June thirtieth of the calendar year seventeen**
105 **years after the calendar year in which sections 260.1111 to 260.1140 become effective**
106 **under subsection 8 of section 260.1140 and each fiscal year thereafter, upon completion**
107 **and verification of the auction results, the financial services administrator shall notify**
108 **winning bidders and transfer the auction proceeds to the state treasurer for deposit as**
109 **follows:**

110 **(a) Fifty percent of the auction proceeds to the carbon emissions reduction fund**
111 **created under section 260.1133; and**

112 **(b) The remaining auction proceeds to the climate investment fund created**
113 **under section 260.1134 and the air quality and health disparities improvement fund**
114 **created under section 260.1137.**

115 **8. (1) The department shall adopt by rule provisions to guard against bidder**
116 **collusion and minimize the potential for market manipulation. A registered entity shall**
117 **not release or disclose any bidding information including:**

118 **(a) Intent to participate or refrain from participation;**

119 **(b) Auction approval status;**

120 **(c) Intent to bid;**

121 **(d) Bidding strategy;**

122 **(e) Bid price or bid quantity; or**

123 **(f) Information on the bid guarantee provided to the financial services**
124 **administrator.**

125 **(2) The department may cancel or restrict a previously approved auction**
126 **participation application or reject a new application if the department determines that a**
127 **registered entity has:**

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

134 **9. Any cancellation or restriction approved by the department under subsection**
135 **8 of this section may be permanent or for a specified number of auctions and the**
136 **cancellation or restriction imposed is not exclusive and is in addition to the remedies**
137 **that may be available under state or federal laws, if applicable.**

138 **10. The department shall design allowance auctions so as to allow, to the**
139 **maximum extent practicable, linking with external greenhouse gas emissions trading**
140 **programs in other jurisdictions and to facilitate the transfer of allowances when the**
141 **state's program has entered into a linkage agreement with other external greenhouse**
142 **gas emissions trading programs. The department may conduct auctions jointly with**
143 **linked jurisdictions.**

144 **11. In setting the number of allowances offered at each auction, the department**
145 **shall consider the allowances in the marketplace due to the marketing of allowances**
146 **issued as required under sections 260.1121 to 260.1123 in the department's**
147 **determination of the number of allowances to be offered at auction. The department**
148 **shall offer only such number of allowances at each auction as will enhance the likelihood**
149 **of achieving the greenhouse gas limits goals under subparagraph d. of paragraph (a) of**
150 **subdivision (1) of subsection 7 of section 260.1116.**

260.1121. 1. Facilities owned or operated by a covered entity shall receive an
2 **allocation of allowances for the covered emissions at those facilities under this**
3 **subsection at no cost if the operations of the facility are classified as emissions-intensive**
4 **and trade-exposed, as determined by being engaged in one or more of the processes**
5 **described by the following NAICS codes and industry descriptions:**

6 **(1) NAICS codes beginning with 331, metals manufacturing, including iron and**
7 **steel making; ferroalloy and primary metals manufacturing; secondary aluminum**
8 **smelting and alloying; aluminum sheet, plate, and foil manufacturing; and smelting,**
9 **refining, and alloying of other nonferrous metals;**

10 **(2) NAICS codes beginning with 322, paper manufacturing, including pulp mills,**
11 **paper mills, and paperboard milling;**

12 **(3) NAICS codes beginning with 3364, aerospace product and parts**
13 **manufacturing;**

14 **(4) NAICS codes beginning with 321, wood products manufacturing;**

- 15 **(5) NAICS codes beginning with 327, nonmetallic mineral manufacturing,**
16 **including glass container manufacturing;**
- 17 **(6) NAICS codes beginning with 325, chemical manufacturing;**
- 18 **(7) NAICS codes beginning with 334, computer and electronic product**
19 **manufacturing, including semiconductor and related device manufacturing;**
- 20 **(8) NAICS codes beginning with 311, food manufacturing;**
- 21 **(9) NAICS code 327310, cement manufacturing;**
- 22 **(10) NAICS code 324110, petroleum refining;**
- 23 **(11) Asphalt paving mixtures and block manufacturing from refined petroleum;**
- 24 **(12) NAICS code 324122, asphalt shingle and coating manufacturing from**
25 **refined petroleum; and**
- 26 **(13) NAICS code 324199, all other petroleum and coal products manufacturing**
27 **from refined petroleum.**

28 **2. On or before July first of the calendar year after the calendar year in which**
29 **sections 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140,**
30 **the department shall adopt by rule objective criteria for both emissions' intensity and**
31 **trade exposure for the purpose of identifying emissions-intensive, trade-exposed**
32 **manufacturing businesses during the second compliance period of the program and**
33 **subsequent compliance periods. A facility covered under subsection 1 of this section is**
34 **considered an emissions-intensive, trade-exposed facility and is eligible for allocation of**
35 **no-cost allowances as described in this section. In addition, any covered party that is a**
36 **manufacturing business that can demonstrate to the department that it meets the**
37 **objective criteria adopted by rule is also eligible for treatment as emissions-intensive,**
38 **trade-exposed and is eligible for allocation of no-cost allowances as described in this**
39 **section. In developing the objective criteria under this subsection, the department shall**
40 **consider the locations of facilities potentially identified as emissions-intensive, trade-**
41 **exposed manufacturing businesses relative to overburdened communities.**

42 **3. (1) For the first compliance period beginning January first of the second**
43 **calendar year after the calendar year in which sections 260.1111 to 260.1140 become**
44 **effective under subsection 8 of section 260.1140, the annual allocation of no-cost**
45 **allowances for direct distribution to a facility identified as emissions-intensive and**
46 **trade-exposed shall be equal to the facility's baseline carbon intensity established using**
47 **data from the second to sixth calendar years before the calendar year in which sections**
48 **260.1111 to 260.1140 become effective under subsection 8 of section 260.1140, or other**
49 **data as allowed under this section, multiplied by the facility's actual production for each**
50 **calendar year during the compliance period. For facilities using the mass-based**
51 **approach, the allocation of no-cost allowances shall be equal to the facility's mass-based**

52 baseline using data from the second to sixth calendar years before the calendar year in
53 which sections 260.1111 to 260.1140 become effective under subsection 8 of section
54 260.1140, or other data as allowed under this section.

55 (2) (a) For the second compliance period, beginning January first of the sixth
56 calendar year after the calendar year in which sections 260.1111 to 260.1140 become
57 effective under subsection 8 of section 260.1140, and in each subsequent compliance
58 period, the annual allocation of no-cost allowances established under subdivision (1) of
59 this subsection shall be adjusted according to the benchmark reduction schedules
60 established under paragraphs (c) and (d) of this subdivision and subdivision (5) of this
61 subsection multiplied by the facility's actual production during the period. The
62 department shall adjust the no-cost allocation of allowances and credits to an emissions-
63 intensive and trade-exposed facility to avoid duplication with any no-cost allowances
64 transferred under sections 260.1122 and 260.1123, if applicable.

65 (b) As used in this section, "carbon intensity" means the amount of carbon
66 dioxide equivalent emissions from a facility in metric tons divided by the facility specific
67 measure of production including, but not limited to, units of product manufactured or
68 sold, over the same time interval.

69 (c) If an emissions-intensive and trade-exposed facility is not able to feasibly
70 determine a carbon intensity benchmark based on its unique circumstances, the entity
71 may elect to use a mass-based baseline that does not vary based on changes in
72 production volumes. The mass-based baseline shall be based upon data from the second
73 to sixth calendar years before the calendar year in which sections 260.1111 to 260.1140
74 become effective under subsection 8 of section 260.1140, unless the emissions-intensive,
75 trade-exposed facility can demonstrate that there have been abnormal periods of
76 operation that materially impacted the facility and the baseline period should be
77 expanded to include years prior to the sixth calendar year before the calendar year in
78 which sections 260.1111 to 260.1140 become effective under subsection 8 of section
79 260.1140. For each year during the first four-year compliance period that begins
80 January first of the second calendar year after the calendar year in which sections
81 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140, such
82 facilities shall be awarded no-cost allowances equal to one hundred percent of the
83 facility's mass-based baseline. For each year during the second four-year compliance
84 period that begins January first of the sixth calendar year after the calendar year in
85 which sections 260.1111 to 260.1140 become effective under subsection 8 of section
86 260.1140, such facilities shall be awarded no-cost allowances equal to ninety-seven
87 percent of the facility's mass-based baseline. For each year during the third compliance
88 period that begins January first of the tenth calendar year after the calendar year in

89 which sections 260.1111 to 260.1140 become effective under subsection 8 of section
90 260.1140, such facilities shall be awarded no-cost allowances equal to ninety-four
91 percent of the facility's mass-based baseline. Except as provided under paragraph (d) of
92 this subdivision, if a facility elects to use a mass-based baseline, it shall not later convert
93 to a carbon intensity benchmark during the first three compliance periods.

94 (d) A facility with a NAICS code beginning with 3364 that is using a mass-based
95 baseline under paragraph (c) of this subdivision shall receive an additional no-cost
96 allowance allocation under this section in order to accommodate an increase in
97 production that increases its emissions above the baseline on a basis equivalent in
98 principle to those awarded to entities utilizing a carbon intensity benchmark under
99 paragraph (a) of this subdivision. The department shall establish methods to award, for
100 any annual period, additional no-cost allowance allocations under this section and, if
101 appropriate based on projected production, to achieve a similar ongoing result through
102 the adjustment of the facility's mass-based baseline. An eligible facility under this
103 subsection that has elected to use a mass-based baseline shall not convert to a carbon
104 intensity benchmark until the next compliance period.

105 (3) (a) On or before September fifteenth of the first calendar year after the
106 calendar year in which sections 260.1111 to 260.1140 become effective under subsection
107 8 of section 260.1140, each emissions-intensive, trade-exposed facility shall submit its
108 carbon intensity baseline for the first compliance period to the department. The carbon
109 intensity baseline for the first compliance period shall use data from the second to sixth
110 calendar years before the calendar year in which sections 260.1111 to 260.1140 become
111 effective under subsection 8 of section 260.1140, unless the emissions-intensive, trade-
112 exposed facility can demonstrate that there have been abnormal periods of operation
113 that materially impacted the facility and the baseline period should be expanded to
114 include years prior to the sixth calendar year before the calendar year in which sections
115 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140.

116 (b) On or before November fifteenth of the first calendar year after the calendar
117 year in which sections 260.1111 to 260.1140 become effective under subsection 8 of
118 section 260.1140, the department shall review and approve each emissions-intensive,
119 trade-exposed facility's baseline carbon intensity for the first compliance period.

120 (4) During the first four-year compliance period that begins January first of the
121 second calendar year after the calendar year in which sections 260.1111 to 260.1140
122 become effective under subsection 8 of section 260.1140, each emissions-intensive, trade-
123 exposed facility shall record its facility-specific carbon intensity baseline based on its
124 actual production.

125 **(5) (a) For the second four-year compliance period that begins January first of**
126 **the sixth calendar year after the calendar year in which sections 260.1111 to 260.1140**
127 **become law, the second period benchmark for each emissions-intensive, trade-exposed**
128 **facility is three percent below the first period baseline specified under subdivisions (1) to**
129 **(3) of this subsection.**

130 **(b) For the third four-year compliance period that begins January first of the**
131 **tenth calendar year after the calendar year in which sections 260.1111 to 260.1140**
132 **become effective under subsection 8 of section 260.1140, the third period benchmark for**
133 **each emissions-intensive, trade-exposed facility is three percent lower than the second**
134 **period benchmark.**

135 **(6) Prior to the beginning of either the second, third, or subsequent compliance**
136 **periods, the department may make an upward adjustment in the next compliance**
137 **period's benchmark for an emissions-intensive, trade-exposed facility based on the**
138 **facility's demonstration to the department that additional reductions in carbon intensity**
139 **or mass emissions are not technically or economically feasible. The department may**
140 **base the upward adjustment applicable to an emissions-intensive, trade-exposed facility**
141 **in the next compliance period on the facility's best available technology analysis. The**
142 **department shall by rule provide for emissions-intensive, trade-exposed facilities to**
143 **apply to the department for an adjustment to the allocation for direct distribution of no-**
144 **cost allowances based on its facility-specific carbon intensity benchmark or mass**
145 **emissions baseline. The department shall make adjustments based on:**

146 **(a) A significant change in the emissions use or emissions attributable to the**
147 **manufacture of an individual good or goods in this state by an emissions-intensive,**
148 **trade-exposed facility based on a finding by the department that an adjustment is**
149 **necessary to accommodate for changes in the manufacturing process that have a**
150 **material impact on emissions;**

151 **(b) Significant changes to an emissions-intensive, trade-exposed facility's**
152 **external competitive environment that result in a significant increase in leakage risk; or**

153 **(c) Abnormal operating periods when an emissions-intensive, trade-exposed**
154 **facility's carbon intensity has been materially affected so that such abnormal operating**
155 **periods are either excluded or otherwise considered in the establishment of the**
156 **compliance period carbon intensity benchmarks.**

157 **4. (1) On or before December first of the fifth calendar year after the calendar**
158 **year in which sections 260.1111 to 260.1140 become effective under subsection 8 of**
159 **section 260.1140, the department shall provide a report to the appropriate committees of**
160 **the senate and house of representatives that describes alternative methods for**
161 **determining the amount and a schedule of allowances to be provided to facilities**

162 owned or operated by each covered entity designated as an emissions-intensive, trade-
163 exposed facility beginning January first of the fourteenth calendar year after the
164 calendar year in which sections 260.1111 to 260.1140 become effective under subsection
165 8 of section 260.1140 and before January first of the twenty-ninth calendar year after
166 the calendar year in which sections 260.1111 to 260.1140 become effective under
167 subsection 8 of section 260.1140. The report shall include a review of global best
168 practices in ensuring against emissions leakage and economic harm to businesses in
169 carbon pricing programs and describe alternative methods of emissions performance
170 benchmarking and mass-based allocation of no-cost allowances. At a minimum, the
171 department shall evaluate benchmarks based on both carbon intensity and mass, as well
172 as the use of best available technology as a method for compliance. In developing the
173 report, the department shall form an advisory group that includes representatives of the
174 manufacturers listed under subsection 1 of this section.

175 (2) If the general assembly does not adopt a compliance obligation for emissions-
176 intensive, trade-exposed facilities before December first of the sixth calendar year after
177 the calendar year in which sections 260.1111 to 260.1140 become effective under
178 subsection 8 of section 260.1140, such facilities shall continue to receive allowances as
179 provided in the third four-year compliance period that begins January first of the tenth
180 calendar year after the calendar year in which sections 260.1111 to 260.1140 become
181 effective under subsection 8 of section 260.1140.

182 5. If the actual emissions of an emissions-intensive, trade- exposed facility exceed
183 the facility's no-cost allowances assigned for that compliance period, it shall acquire
184 additional compliance instruments such that the total compliance instruments
185 transferred to its compliance account consistent with 260.1129 equals emissions
186 during the compliance period. An emissions-intensive, trade-exposed facility shall be
187 allowed to bank unused allowances, including for future sale and investment in best
188 available technology when economically feasible. The department shall limit the use of
189 offset credits for compliance by an emissions-intensive, trade-exposed facility, such that
190 the quantity of no-cost allowances plus the provision of offset credits does not exceed one
191 hundred percent of the facility's total compliance obligation over a compliance period.

192 6. The department shall withhold or withdraw the relevant share of allowances
193 allocated to a covered entity under this section if the covered entity ceases production in
194 the state and becomes a closed facility. In the event an entity curtails all production and
195 becomes a curtailed facility, the allowances are retained but shall not be traded, sold, or
196 transferred and are still subject to the emission reduction requirements specified in this
197 section. An owner or operator of a curtailed facility may transfer the allowances to a
198 new operator of the facility that will be operated under the same NAICS codes. If the

199 curtailed facility becomes a closed facility, all unused allowances shall be transferred to
200 the emissions containment reserve. A curtailed facility is not eligible to receive free
201 allowances during a period of curtailment. Any allowances withheld or withdrawn
202 under this subsection shall be transferred to the emissions containment reserve.

203 7. An owner or operator of more than one facility receiving no-cost allowances
204 under this section may transfer allowances among the eligible facilities.

205 8. Rules adopted by the department under this section shall include protocols for
206 allocating allowances at no cost to an eligible facility built after the effective date of this
207 section. The protocols shall include consideration of the products and criteria pollutants
208 being produced by the facility, as well as the local environmental and health impacts
209 associated with the facility. For a facility that is built on tribal lands or is determined by
210 the department to impact tribal lands and resources, the protocols shall be developed in
211 consultation with the affected tribal nations.

260.1122. 1. (1) On or before October first of the calendar year after the
2 calendar year in which sections 260.1111 to 260.1140 become effective under subsection
3 8 of section 260.1140, the department shall adopt rules, in consultation with the
4 department of commerce and insurance and the public service commission, establishing
5 the methods and procedures for allocating allowances for consumer-owned and
6 investor-owned electric utilities. The rules shall take into account the cost burden of
7 the program on electricity customers.

8 (2) On or before October first of the calendar year after the calendar year in
9 which sections 260.1111 to 260.1140 become effective under subsection 8 of section
10 260.1140, the department shall adopt an allocation schedule by rule, in consultation with
11 the department of commerce and insurance and the public service commission, for the
12 first compliance period for the provision of allowances at no cost to consumer-owned
13 and investor-owned electric utilities. Such allocation shall be consistent with a forecast,
14 approved by the appropriate governing board or the public service commission, of each
15 utility's supply and demand and the cost burden resulting from the inclusion of the
16 covered entities in the first compliance period.

17 (3) On or before October first of the fifth calendar year after the calendar year
18 in which sections 260.1111 to 260.1140 become effective under subsection 8 of section
19 260.1140, the department shall adopt an allocation schedule by rule, in consultation with
20 the department of commerce and insurance and the public service commission, for the
21 provision of allowances for the second compliance period at no cost to consumer-owned
22 and investor-owned electric utilities. Such allocation shall be consistent with a forecast,
23 approved by the appropriate governing board or the public service commission, of each
24 utility's supply and demand and the cost burden resulting from the inclusion of covered

25 entities in the second compliance period. The allowances included in this schedule shall
26 reflect the increased scope of coverage in the electricity sector relative to the program
27 budget of allowances established in the calendar year after the calendar year in which
28 sections 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140.

29 (4) On or before October first of the seventh calendar year after the calendar
30 year in which sections 260.1111 to 260.1140 become effective under subsection 8 of
31 section 260.1140, the department shall adopt an allocation schedule by rule, in
32 consultation with the department of commerce and insurance and the public service
33 commission, for the provision of allowances at no cost to consumer-owned and investor-
34 owned electric utilities for the compliance periods contained within the tenth to twenty-
35 fourth calendar years after the calendar year in which sections 260.1111 to 260.1140
36 become effective under subsection 8 of section 260.1140. Such allocation shall be
37 consistent with a forecast, approved by the appropriate governing board or the public
38 service commission, of each utility's supply and demand and the cost burden resulting
39 from the inclusion of the covered entities in the compliance periods. The rule developed
40 under this subdivision may prescribe an amount of allowances allocated at no cost that
41 shall be consigned to auction by consumer-owned and investor-owned electric utilities.
42 Under no circumstances shall utilities receive any free allowances after the twenty-
43 fourth calendar year after the calendar year in which sections 260.1111 to 260.1140
44 become effective under subsection 8 of section 260.1140.

45 2. (1) During the first compliance period, allowances allocated at no cost to
46 consumer-owned and investor-owned electric utilities may be consigned to auction for
47 the benefit of ratepayers, deposited for compliance, or a combination of both. The rules
48 adopted by the department under subsection 2 of this section shall include provisions for
49 directing revenues generated under this subsection to the applicable utilities.

50 (2) On or before October first of the fifth calendar year after the calendar year
51 in which sections 260.1111 to 260.1140 become effective under subsection 8 of section
52 260.1140, the department, in consultation with the department of commerce and
53 insurance and the public service commission, shall adopt rules governing the amount of
54 allowances allocated at no cost under subdivision (3) of subsection 2 of this section that
55 shall be consigned to auction. For the ninth calendar year after the calendar year in
56 which sections 260.1111 to 260.1140 become effective under subsection 8 of section
57 260.1140, electric utilities may use allowances for compliance equal to their covered
58 emissions.

59 3. The benefits of all allowances consigned to auction under this section shall be
60 used by consumer-owned and investor-owned electric utilities for the benefit of

61 ratepayers, with the first priority the mitigation of any rate impacts to low-income
62 customers.

63 4. If an entity is identified by the department as an emissions-intensive, trade-
64 exposed industry under section 260.1121, unless allowances have been otherwise
65 allocated for electricity-related emissions to the entity under section 260.1121 or to a
66 consumer-owned utility under this section, the department shall allocate allowances at
67 no cost to the electric utility or power marketing administration that is providing
68 electricity to the entity in an amount equal to the forecasted emissions for electricity
69 consumption for the entity for the compliance period.

70 5. The department shall allow for allowances to be transferred between a power
71 marketing administration and electric utilities and used for direct compliance.

72 6. Rules establishing the allocation of allowances to consumer-owned utilities
73 and investor-owned utilities shall consider the impact of electrification of buildings,
74 transportation, and industry on the electricity sector.

75 7. A consumer-owned utility that is party to a contract that meets the following
76 conditions shall be issued allowances under this section for emissions associated with
77 imported electricity, in order to prevent impairment of the value of the contract to either
78 party:

79 (1) The contract does not address compliance costs imposed upon the consumer-
80 owned utility by the program created under sections 260.1111 to 260.1140; and

81 (2) The contract was in effect as of the effective date of this section and expires
82 no later than the end of the first compliance period.

260.1123. 1. For the benefit of ratepayers, allowances shall be allocated at no
2 cost to covered entities that are natural gas utilities.

3 (1) On or before October first of the calendar year after the calendar year in
4 which sections 260.1111 to 260.1140 become effective under subsection 8 of section
5 260.1140, the department shall adopt rules, in consultation with the public service
6 commission, establishing the methods and procedures for allocating allowances to
7 natural gas utilities. Rules adopted under this subsection shall allow for a natural gas
8 utility to be provided allowances at no cost to cover their emissions and decline
9 proportionally with the cap, consistent with section 260.1117. Allowances allocated at no
10 cost to natural gas utilities shall be consigned to auction for the benefit of ratepayers
11 consistent with subsection 2 of this section, deposited for compliance, or a combination
12 of both. The rules adopted by the department under this section shall include provisions
13 directing revenues generated under this subsection to the applicable utilities.

14 (2) On or before October first of the calendar year after the calendar year in
15 which sections 260.1111 to 260.1140 become effective under subsection 8 of section

16 260.1140, the department shall adopt an allocation schedule by rule, in consultation with
17 the public service commission, for the first two compliance periods for the provision of
18 allowances for the benefit of ratepayers at no cost to natural gas utilities.

19 (3) On or before October first of the seventh calendar year after the calendar
20 year in which sections 260.1111 to 260.1140 become effective under subsection 8 of
21 section 260.1140, the department shall adopt an allocation schedule by rule, in
22 consultation with the public service commission, for the provision of allowances for the
23 benefit of ratepayers at no cost to natural gas utilities for the compliance periods
24 contained within the tenth to nineteenth calendar years after the calendar year in which
25 sections 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140.

26 2. (1) Beginning in the second calendar year after the calendar year in which
27 sections 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140,
28 sixty-five percent of the no-cost allowances shall be consigned to auction for the benefit
29 of customers, including at a minimum eliminating any additional cost burden to low-
30 income customers from the implementation of sections 260.1111 to 260.1140. Rules
31 adopted under this subsection shall increase the percentage of allowances consigned to
32 auction by five percent each year until a total of one hundred percent is reached.

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

40 (3) Except for low-income customers, the customer bill credits under this
41 subsection are reserved exclusively for customers at locations connected to a natural gas
42 utility's system on the effective date of this section. Bill credits shall not be provided to
43 customers of the gas utility at a location connected to the system after the effective date
44 of this section.

45 3. In order to qualify for no-cost allowances, covered entities that are natural gas
46 utilities shall provide copies of their greenhouse gas emissions reports filed with the
47 United States Environmental Protection Agency under 40 CFR Part 98 Subpart NN for
48 the first to sixth calendar years before the calendar year in which sections 260.1111 to
49 260.1140 become effective under subsection 8 of section 260.1140 to the department on
50 or before March thirty-first of the calendar year after the calendar year in which
51 sections 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140.
52 The copies of the reports shall be provided in electronic form to the department, in a

53 manner prescribed by the department. The reports shall be complete and contain all
54 information required by 40 CFR 98.406 including, but not limited to, information on
55 large end-users served by the natural gas utility. For any year in which a natural gas
56 utility was not required to file this report with the United States Environmental
57 Protection Agency, a report may be submitted in a manner prescribed by the
58 department containing all of the information required in the Subpart NN report.

59 4. To continue receiving no-cost allowances, a natural gas utility shall provide to
60 the department the United States environmental protection agency Subpart NN
61 greenhouse gas emissions report for each reporting year in the manner and by the dates
62 provided by subsection 4 of section 260.1139 as part of the greenhouse gas reporting
63 requirements of sections 260.1111 to 260.1140.

260.1124. 1. To help ensure that the price of allowances remains sufficient to
2 incentivize reductions in greenhouse gas emissions, the department shall establish an
3 emissions containment reserve and set an emissions containment reserve trigger price
4 by rule. The price shall be set at a reasonable amount above the auction floor price and
5 equal to the level established in jurisdictions with which the department has entered into
6 a linkage agreement. If a jurisdiction with which the department has entered into a
7 linkage agreement has no emissions containment trigger price, the department shall
8 suspend the trigger price under this subsection. The purpose of withholding allowances
9 in the emissions containment reserve is to secure additional emissions reductions.

10 2. If the emissions containment reserve trigger price is met during an auction,
11 the department shall automatically withhold allowances as needed. The department
12 shall convert and transfer any allowances that have been withheld from auction into the
13 emissions containment reserve account.

14 3. Emissions containment reserve allowances shall be withheld from an auction
15 only if the demand for allowances would result in an auction clearing price that is less
16 than the emissions containment reserve trigger price prior to the withholding from the
17 auction of any emissions containment reserve allowances.

18 4. (1) The department shall transfer allowances to the emissions containment
19 reserve in the following situations:

20 (a) No less than two percent of the total number of allowances available from the
21 allowance budgets for the second to fifth calendar years after the calendar year in which
22 sections 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140;

23 (b) When allowances are unsold in auctions under section 260.1120;

24 (c) When facilities curtail or close consistent with subsection 6 of section
25 260.1121; or

26 (d) When facilities fall below the emissions threshold.

27 **(2) The amount of allowances withdrawn from the program budget shall be**
28 **proportionate to the amount of emissions such a facility was previously using.**

29 **5. (1) Allowances shall be distributed from the emissions containment reserve by**
30 **auction when new covered and opt-in entities enter the program.**

31 **(2) Allowances equal to the greenhouse gas emissions resulting from a new or**
32 **expanded emissions-intensive, trade-exposed facility with emissions in excess of twenty-**
33 **five thousand metric tons per year during the first applicable compliance period shall be**
34 **provided to the facility from the reserve created in this section and shall be retired by**
35 **the facility. In subsequent compliance periods, the facility shall be subject to the**
36 **regulatory cap and related requirements under sections 260.1111 to 260.1140.**

260.1125. 1. To help minimize allowance price volatility in the auction, the
2 **department shall adopt by rule an auction floor price and a schedule for the floor price**
3 **to increase by a predetermined amount every year. The department shall not sell**
4 **allowances at bids lower than the auction floor price. The department's rules shall**
5 **specify holding limits that determine the maximum number of allowances that may be**
6 **held for use or trade by a registered entity at any one time. The department shall also**
7 **establish an auction ceiling price to limit extraordinary prices and to determine when to**
8 **offer allowances through the allowance price containment reserve auctions authorized**
9 **under this section.**

10 **2. For the second to fifth calendar years after the calendar year in which sections**
11 **260.1111 to 260.1140 become effective under subsection 8 of section 260.1140, the**
12 **department shall place no less than two percent of the total number of allowances**
13 **available from the allowance budgets for those years in an allowance price containment**
14 **reserve. The reserve shall be designed as a mechanism to assist in containing**
15 **compliance costs for covered and opt-in entities in the event of unanticipated high costs**
16 **for compliance instruments.**

17 **3. (1) The department shall adopt rules for holding auctions of allowances from**
18 **the price containment reserve when the settlement prices in the preceding auction**
19 **approach the adopted auction ceiling price. The auction shall be separate from auctions**
20 **of other allowances.**

21 **(2) Allowances shall also be distributed from the allowance price containment**
22 **reserve by auction when new covered and opt-in entities enter the program and**
23 **allowances in the emissions containment reserve under section 260.1124 are exhausted.**

24 **4. Only covered and opt-in entities shall participate in the auction of allowances**
25 **from the allowance price containment reserve.**

26 **5. The process for reserve auctions is the same as the process provided under**
27 **section 260.1120 and the proceeds from reserve auctions shall be treated the same.**

28 **6. The department shall by rule:**

29 **(1) Set the reserve auction floor price in advance of the reserve auction. The**
30 **department may choose to establish multiple price tiers for the allowances from the**
31 **reserve;**

32 **(2) Establish the requirements and schedule for the allowance price containment**
33 **reserve auctions; and**

34 **(3) Establish the amount of allowances to be placed in the allowance price**
35 **containment reserve after the first compliance period ending in the fifth calendar year**
36 **after the calendar year in which sections 260.1111 to 260.1140 become effective under**
37 **subsection 8 of section 260.1140.**

260.1126. 1. The department shall establish a price ceiling to provide cost
2 **protection for facilities obligated to comply with sections 260.1111 to 260.1140. The**
3 **ceiling shall be set at a level sufficient to facilitate investments to achieve further**
4 **emission reductions beyond those enabled by the price ceiling, with the intent that**
5 **investments accelerate the state's achievement of the greenhouse gas limits under**
6 **subsection 7 of section 260.1116. The price ceiling shall increase annually in proportion**
7 **to the price floor.**

8 **2. If no allowances remain in the allowance price containment reserve, the**
9 **department shall issue the number of price ceiling units for sale sufficient to provide**
10 **cost protection for facilities as established under subsection 1 of this section. Purchases**
11 **shall be limited to entities that do not have sufficient eligible compliance instruments in**
12 **their holding and compliance accounts for the next compliance period and these entities**
13 **shall purchase only what they need to meet their compliance obligation for the current**
14 **compliance period. Price ceiling units shall not be sold or transferred and shall be**
15 **retired for compliance in the current compliance period. A price ceiling unit is not a**
16 **property right.**

17 **3. Funds raised in connection with the sale of price ceiling units shall be**
18 **expended to achieve emissions reductions on at least a metric-ton-for-metric-ton basis**
19 **that are real, permanent, quantifiable, verifiable, enforceable by the state, and in**
20 **addition to any greenhouse gas emission reduction otherwise required by law or**
21 **regulation and any other greenhouse gas emission reduction that otherwise would occur.**

260.1127. 1. The department shall adopt by rule the protocols for establishing
2 **offset projects and securing offset credits that may be used to meet a portion of a**
3 **covered or opt-in entity's compliance obligation under section 260.1129. The protocols**
4 **adopted by the department under this section shall align with any policies adopted**
5 **under greenhouse gas limits under subsection 7 of section 260.1116.**

6 **2. Offset projects shall:**

7 **(1) Provide direct environmental benefits to this state or be located in a**
8 **jurisdiction with which this state has entered into a linkage agreement;**

9 **(2) Result in greenhouse gas reductions or removals that:**

10 **(a) Are real, permanent, quantifiable, verifiable, and enforceable; and**

11 **(b) Are in addition to greenhouse gas emission reductions or removals otherwise**
12 **required by law and other greenhouse gas emission reductions or removals that would**
13 **otherwise occur; and**

14 **(3) Have been certified by a recognized registry after the effective date of this**
15 **section or within two years prior to the effective date of this section.**

16 **3. (1) A total of no more than five percent of a covered or opt-in entity's**
17 **compliance obligation during the first compliance period shall be met by transferring**
18 **offset credits. During such years, at least fifty percent of a covered or opt-in entity's**
19 **compliance obligation satisfied by offset credits shall be sourced from offset projects**
20 **that provide direct environmental benefits in the state.**

21 **(2) A total of no more than four percent of a covered or opt-in entity's**
22 **compliance obligation during the second compliance period shall be met by transferring**
23 **offset credits. During such years, at least seventy-five percent of a covered or opt-in**
24 **entity's compliance obligation satisfied by offset credits shall be sourced from offset**
25 **projects that provide direct environmental benefits in the state. The department may**
26 **reduce the seventy-five percent requirement if it determines there is not sufficient offset**
27 **supply in the state to meet offset demand during the second compliance period.**

28 **(3) The limits under subdivisions (1) and (2) of this subsection may be modified**
29 **by rule as adopted by the department when appropriate to ensure achievement of the**
30 **proportionate share of statewide emissions limits under subsection 7 of section 260.1116**
31 **and to provide for alignment with other jurisdictions to which the state has linked.**

32 **(4) The limits under subdivisions (1) and (2) of this subsection may be reduced**
33 **for a specific covered or opt-in entity if the department determines, in consultation with**
34 **the environmental justice council, that the covered or opt-in entity has or is likely to:**

35 **(a) Contribute substantively to cumulative air pollution burden in an**
36 **overburdened community as determined by criteria established by the department, in**
37 **consultation with the environmental justice council; or**

38 **(b) Violate any permits required by any federal, state, or local air pollution**
39 **control agency where the violation may result in an increase in emissions.**

40 **4. In adopting protocols governing offset projects and the use of offset credits by**
41 **covered and opt-in entities, the department shall:**

42 **(1) Take into consideration standards, rules, or protocols for offset projects and**
43 **offset credits established by other states, provinces, and countries with programs**
44 **comparable to the program established under sections 260.1111 to 260.1140;**

45 **(2) Encourage opportunities for the development of offset projects in this state**
46 **by adopting offset protocols including, but not limited to, protocols that make use of**
47 **aggregation or other mechanisms to reduce transaction costs related to the development**
48 **of offset projects and that support the development of carbon dioxide removal projects;**

49 **(3) Adopt a process for monitoring and invalidating offset credits as necessary to**
50 **ensure the credit reflects emission reductions or removals that continue to meet the**
51 **standards required by subsection 1 of this section. If an offset credit is invalidated, the**
52 **covered or opt-in entity shall, within six months of the invalidation, transfer**
53 **replacement credits or allowances to meet its compliance obligation. Failure to**
54 **transfer the required credits or allowances is a violation subject to penalties as provided**
55 **under section 260.1130; and**

56 **(4) Make use of aggregation or other mechanisms, including cost-effective**
57 **inventory and monitoring provisions, to increase the development of offset and carbon**
58 **removal projects by landowners across the broadest possible variety of types and sizes of**
59 **lands, including lands owned by small forestland owners.**

60 **5. Any offset credits used shall not be in addition to or allow for an increase in**
61 **any emissions limits under subsection 7 of section 260.1116, as reflected in the annual**
62 **allowance budgets developed under section 260.1117.**

63 **6. The offset credit shall be registered and tracked as a compliance instrument.**

64 **7. Beginning in the tenth calendar year after the calendar year in which sections**
65 **260.1111 to 260.1140 become effective under subsection 8 of section 260.1140, the limits**
66 **established under subsection 3 of this section apply unless modified by rule as adopted**
67 **by the department after a public consultation process.**

260.1128. 1. As used in this section, "eligible entity" means a nonprofit entity
2 **solely based in this state that can demonstrate a membership of at least one thousand**
3 **small forestland owners and that has, as part of its mission, the promotion of the**
4 **sustainable stewardship of family forestlands.**

5 **2. The department of natural resources shall contract with an eligible entity**
6 **capable of providing public value to the state through the establishment and**
7 **implementation of a small forestland owner work group. The purpose of the work**
8 **group is to forward the goals and implementation of sections 260.1111 to 260.1140 by**
9 **identifying possible carbon market opportunities including, but not limited to, the**
10 **provision of offset credits that qualify under section 260.1127, and other incentive-based**
11 **greenhouse gas reduction programs that landowners may be able to access, including**

12 compliance markets operated by other jurisdictions, voluntary markets, and federal,
13 state, and private programs for forestlands that can be leveraged to achieve carbon
14 reductions.

15 3. The work group established by the eligible entity under this section shall:

16 (1) Provide recommendations for the implementation and funding of a pilot
17 program to develop an aggregator account that will pursue carbon offset projects for
18 small forestland owners in this state including, but not limited to, recommendations
19 based on programs established in other jurisdictions;

20 (2) Coordinate with the department on the development of offset protocols
21 related to landowners under subdivision (4) of subsection 4 of section 260.1127;

22 (3) Develop a framework and funding proposals for establishing a program to
23 link interested small forestland owners with incentive-based carbon reducing programs
24 that facilitate adoption of forest practices that increase carbon storage and
25 sequestration in forests and wood products. The framework may include:

26 (a) Identifying areas of coordination and layering among state, federal, and
27 private landowner incentive programs and identifying roadblocks to better scalability;

28 (b) Assisting landowners with access to feasibility analyses, market applications,
29 stand inventories, pilot project support, and other services to reduce the transaction
30 costs and barriers to entry to carbon markets or carbon incentive programs; and

31 (c) Sharing information with private and other landowners about best practices
32 employed to increase carbon storage and access to incentive programs; and

33 (4) Recommend policies to support the implementation of incentives for
34 participation in carbon markets.

35 4. The work group shall transmit a final report to the department by December
36 first of the calendar year after the calendar year in which sections 260.1111 to 260.1140
37 become effective under subsection 8 of section 260.1140 that provides recommendations
38 for incentives, the implementation of incentives, and payment structures necessary to
39 support small forest landowners and any recommendations around extending the work
40 group or making the work group permanent. The department shall submit the final
41 report to the general assembly by December thirty-first of the calendar year after the
42 calendar year in which sections 260.1111 to 260.1140 become effective under subsection
43 8 of section 260.1140.

44 5. This section shall expire on July first two years after the calendar year in
45 which sections 260.1111 to 260.1140 become effective under subsection 8 of section
46 260.1140.

260.1129. 1. A covered or opt-in entity has a compliance obligation for its
2 emissions during each four-year compliance period, with the first compliance period

3 commencing January first two years after the calendar year in which sections 260.1111
4 to 260.1140 become effective under subsection 8 of section 260.1140 except when the first
5 compliance period commences at a later date under subsection 7 of this section. A
6 covered or opt-in entity shall transfer a number of compliance instruments equal to the
7 entity's covered emissions by November first of each calendar year in which a covered
8 or opt-in entity has a compliance obligation. The department shall set by rule a
9 percentage of compliance instruments that shall be transferred in each year of the
10 compliance period such that covered or opt-in entities are allowed to smooth their
11 compliance obligation within the compliance period but shall fully satisfy their
12 compliance obligation over the course of the compliance period, in a manner similar to
13 external greenhouse gas emissions trading programs in other jurisdictions. In meeting a
14 given compliance obligation, a covered or opt-in entity may use allowances issued in that
15 compliance year, or allowances issued in any of the seven years immediately preceding
16 that compliance year.

17 2. Compliance occurs through the transfer of compliance instruments or price
18 ceiling units, on or before the transfer date, from the holding account to the compliance
19 account of the covered or opt-in entity as described under section 260.1118.

20 3. (1) A covered entity with a facility eligible for use of price ceiling units under
21 section 260.1126 may substitute the submission of compliance instruments with price
22 ceiling units.

23 (2) A covered or opt-in entity submitting insufficient compliance instruments to
24 meet its compliance obligation is subject to a penalty as provided under section
25 260.1130.

26 4. Older vintage allowances shall be retired before newer vintage allowances.

27 5. A covered or opt-in entity shall not borrow an allowance from a future
28 allowance year to meet a current or past compliance obligation.

29 6. Upon receipt by the department of all compliance instruments transferred by
30 a covered entity or opt-in entity to meet its compliance obligation, the department shall
31 retire the allowances or offset credits.

32 7. (1) As used in this subsection, "additive transportation revenue act" means
33 an increase in the state motor fuel tax under chapter 142 by an additional and
34 cumulative tax rate of at least five cents per gallon of fuel after sections 260.1111 to
35 260.1140 become effective under subsection 8 of section 260.1140.

36 (2) Notwithstanding the provisions of subsection 8 of section 260.1140 to the
37 contrary, in order to coordinate and synchronize the cap and invest program established
38 under sections 260.1111 to 260.1140 with other transportation-related investments, this
39 section shall not become effective until a separate additive transportation revenue act

40 becomes law, at which time the department of revenue shall provide written notice to the
41 chief clerk of the house of representatives, the secretary of the senate, and the revisor of
42 statutes.

260.1130. 1. All covered and opt-in entities shall submit compliance instruments
2 in a timely manner to meet the entities' compliance obligations and shall comply with all
3 requirements for monitoring, reporting, holding, and transferring emission allowances
4 and other provisions of sections 260.1111 to 260.1140.

5 2. If a covered or opt-in entity does not submit sufficient compliance instruments
6 to meet its compliance obligation by the specified transfer dates, a penalty of four
7 allowances for every one compliance instrument that is missing shall be submitted to the
8 department within six months. When a covered entity or opt-in entity reasonably
9 believes that such entity will be unable to meet a compliance obligation, the entity shall
10 immediately notify the department. Upon receiving notification, the department shall
11 issue an order requiring the entity to submit the penalty allowances.

12 3. If a covered entity or opt-in entity fails to submit penalty allowances as
13 required by subsection 2 of this section, the department shall issue an order or issue a
14 penalty of up to ten thousand dollars per day per violation, or both, for failure to submit
15 penalty allowances as required by subsection 2 of this section. The order may include a
16 plan and schedule for coming into compliance.

17 4. The department may issue a penalty of up to fifty thousand dollars per day
18 per violation for violations of paragraphs (a) to (e) of subdivision (2) of section 260.1120.

19 5. Except as provided under subsections 3 and 4 of this section, any person that
20 violates the terms of sections 260.1111 to 260.1140 or an order issued under sections
21 260.1111 to 260.1140 incurs a penalty of up to ten thousand dollars per day per violation
22 for each day that the person does not comply. All penalties under subsections 3 and 4 of
23 this section and this subsection shall be deposited into the climate investment fund
24 created under section 260.1134.

25 6. Orders and penalties issued under sections 260.1111 to 260.1140 are
26 appealable to the administrative hearing commission under chapter 621.

27 7. For the first compliance period, the department may reduce the amount of the
28 penalty by adjusting the monetary amount or the number of penalty allowances
29 described under subsections 2 and 3 of this section.

30 8. An electric utility or natural gas utility shall notify its retail customers and the
31 environmental justice council in published form within three months of paying a
32 monetary penalty under this section.

33 **9. (1) No city, town, county, township, or other subdivision or municipal**
34 **corporation of the state shall implement a charge or tax based exclusively upon the**
35 **quantity of greenhouse gas emissions.**

36 **(2) No state department shall adopt or enforce a program that regulates**
37 **greenhouse gas emissions from a stationary source except as provided under sections**
38 **260.1111 to 260.1140.**

39 **(3) Sections 260.1111 to 260.1140 preempt the provisions of any rule in conflict**
40 **with sections 260.1111 to 260.1140.**

260.1131. 1. Subject to making the findings and conducting the public comment
2 **process described under subsection 3 of this section, the department shall seek to enter**
3 **into linkage agreements with other jurisdictions with external greenhouse gas emissions**
4 **trading programs in order to:**

5 **(1) Allow for the mutual use and recognition of compliance instruments issued**
6 **by this state and other linked jurisdictions;**

7 **(2) Broaden the greenhouse gas emission reduction opportunities to reduce the**
8 **costs of compliance on covered entities and consumers;**

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

11 **(4) Enhance market security;**

12 **(5) Reduce program administration costs; and**

13 **(6) Provide consistent requirements for covered entities whose operations span**
14 **jurisdictional boundaries.**

15 **2. The director of the department may execute linkage agreements with other**
16 **jurisdictions with external greenhouse gas emissions trading programs consistent with**
17 **the requirements under sections 260.1111 to 260.1140. A linkage agreement shall cover**
18 **the following:**

19 **(1) Provisions relating to regular, periodic auctions including, but not limited to,**
20 **requirements for eligibility for auction participation, the use of a single auction provider**
21 **to facilitate joint auctions, publication of auction-related information, processes for**
22 **auction participation, purchase limits by auction participant type, bidding processes,**
23 **dates of auctions, and financial requirements;**

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

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

29 **(4) Common program registry, electronic auction platform, tracking systems for**
30 **compliance instruments, and monitoring of compliance instruments;**

31 **(5) Provisions to ensure coordinated administrative and technical support;**

32 **(6) Provisions for public notice and participation; and**

33 **(7) Provisions to collectively resolve differences, amend the agreement, and**
34 **delink or otherwise withdraw from the agreement.**

35 **3. Before entering into a linkage agreement under this section, the department**
36 **shall evaluate and make a finding regarding whether the aggregate number of unused**
37 **allowances in a linked program would reduce the stringency of this state's program and**
38 **this state's ability to achieve its greenhouse gas emissions reduction limits. Before**
39 **entering into a linkage agreement, the department shall also establish a finding that the**
40 **linking jurisdiction and the linkage agreement meet certain criteria identified under this**
41 **subsection and conduct a public comment process to obtain input and a review of the**
42 **linkage agreement by relevant stakeholders and other interested parties. The**
43 **department shall consider input received from the public comment process before**
44 **finalizing a linkage agreement. If the department determines that a full linkage**
45 **agreement is unlikely to meet the criteria, the department may enter into a linkage**
46 **agreement with limitations including, but not limited to, limits on the share of**
47 **compliance that may be met with allowances originating from linked jurisdictions and**
48 **other limitations deemed necessary by the department. A linkage agreement approved**
49 **by the department shall:**

50 **(1) Achieve the purposes identified under subsection 1 of this section;**

51 **(2) Ensure that the linking jurisdiction has provisions to ensure the distribution**
52 **of benefits from the program to vulnerable populations and overburdened communities;**

53 **(3) Be determined by the department to not yield net adverse impacts to either**
54 **jurisdictions' highly impacted communities or analogous communities in the aggregate,**
55 **relative to the baseline level of emissions; and**

56 **(4) Not adversely impact this state's ability to achieve any emission reduction**
57 **limits under subsection 7 of section 260.1116.**

58 **4. The state retains all legal and policy making authority over its program design**
59 **and enforcement.**

260.1132. 1. As used in this section, "benefits" means investments or activities
2 **that:**

3 **(1) Reduce vulnerable population characteristics, environmental burdens, or**
4 **associated risks that contribute significantly to the cumulative impact designation of**
5 **highly impacted communities;**

6 **(2) Meaningfully protect an overburdened community from, or support**
7 **community response to, the impacts of air pollution or climate change; or**

8 **(3) Meet a community need identified by vulnerable members of the community**
9 **that is consistent with the intent of sections 260.1111 to 260.1140.**

10 **2. It is the intent of the general assembly that each year the total investments**
11 **made through the carbon emissions reduction fund created under section 260.1133, the**
12 **climate commitment fund created under section 260.1135, the natural climate solutions**
13 **fund created under section 260.1136, and the air quality and health disparities**
14 **improvement fund created under section 260.1137 achieve at least thirty-five percent**
15 **and a goal of forty percent of total investments that provide direct and meaningful**
16 **benefits to vulnerable populations within the boundaries of overburdened communities**
17 **identified under sections 260.1111 to 260.1140.**

18 **3. The expenditure of moneys under sections 260.1111 to 260.1140 shall be**
19 **consistent with applicable federal, state, and local laws, and treaty rights including, but**
20 **not limited to, prohibitions on uses of funds imposed by the state constitution.**

21 **4. The state shall develop a process by which to evaluate the impacts of the**
22 **investments made under sections 260.1111 to 260.1140, work across state departments to**
23 **develop and track priorities across the different eligible funding categories, and work**
24 **with the environmental justice council under section 260.1114.**

25 **5. No expenditures shall be made from the carbon emissions reduction fund**
26 **created under section 260.1133, the climate investment fund created under section**
27 **260.1134, or the air quality and health disparities improvement fund created under**
28 **section 260.1137 unless, within two years after the effective date of sections 260.1111 to**
29 **260.1140 under subsection 8 of section 260.1140, request legislation is enacted into law.**
30 **As used in this subsection, "request legislation" means legislation brought forth by the**
31 **department under section 260.1116 that outlines a compliance pathway specific to**
32 **emissions-intensive, trade-exposed businesses for achieving their proportionate share of**
33 **the state's emissions reduction limits through the forty-second calendar year after the**
34 **calendar year in which sections 260.1111 to 260.1140 become effective under subsection**
35 **8 of section 260.1140.**

260.1133. 1. (1) There is hereby created in the state treasury the "Carbon
2 **Emissions Reduction Fund", which shall consist of moneys collected under sections**
3 **260.1111 to 260.1140. The state treasurer shall be custodian of the fund. In accordance**
4 **with sections 30.170 and 30.180, the state treasurer may approve disbursements. The**
5 **fund shall be a dedicated fund and, upon appropriation, moneys in this fund shall be**
6 **used solely as provided under sections 260.1111 to 260.1140.**

7 **(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys**
8 **remaining in the fund at the end of the biennium shall not revert to the credit of the**
9 **general revenue fund.**

10 **(3) The state treasurer shall invest moneys in the fund in the same manner as**
11 **other funds are invested. Any interest and moneys earned on such investments shall be**
12 **credited to the fund.**

13 **2. Expenditures from the fund shall to be used to effect reductions in**
14 **transportation sector carbon emissions through a variety of carbon reducing**
15 **investments. Such investments may include, but are not limited to:**

16 **(1) Transportation alternatives to single occupancy passenger vehicles;**

17 **(2) Reductions in single occupancy passenger vehicle miles traveled;**

18 **(3) Reductions in per mile emissions in vehicles including, but not limited to,**
19 **through the funding of alternative fuel infrastructure and incentive programs; and**

20 **(4) Emission reduction programs for freight transportation including, but not**
21 **limited to, motor vehicles and rail, and for ferries and other maritime and port**
22 **activities.**

23 **3. Expenditures from the fund shall be made only for transportation carbon**
24 **emission reducing purposes and shall not be made for highway purposes other than as**
25 **specified in this section.**

26 **4. It is the general assembly's intent that expenditures from the fund used to**
27 **reduce carbon emissions be made with the goal of achieving equity for communities that**
28 **historically have been omitted or adversely impacted by past transportation policies and**
29 **practices.**

260.1134. 1. (1) There is hereby created in the state treasury the "Climate
2 **Investment Fund", which shall consist of moneys collected under sections 260.1111 to**
3 **260.1140. The state treasurer shall be custodian of the fund. In accordance with**
4 **sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund**
5 **shall be a dedicated fund and, upon appropriation, moneys in this fund shall be used**
6 **solely as provided under sections 260.1111 to 260.1140.**

7 **(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys**
8 **remaining in the fund at the end of the biennium shall not revert to the credit of the**
9 **general revenue fund.**

10 **(3) The state treasurer shall invest moneys in the fund in the same manner as**
11 **other funds are invested. Any interest and moneys earned on such investments shall be**
12 **credited to the fund.**

13 **2. (1) Projects or activities funded from the fund shall:**

14 **(a) Meet high labor standards including, but not limited to:**

15 **a. Family-sustaining wages; and**

16 **b. Providing benefits including, but not limited to, health care and employer-**
17 **contributed retirement plans and career development opportunities; and**

18 **(b) Maximize access to economic benefits from such projects for local workers**
19 **and diverse businesses.**

20 **(2) Each contracting entity's proposal shall be reviewed for equity and**
21 **opportunity improvement efforts including, but not limited to:**

22 **(a) Employer-paid sick leave programs;**

23 **(b) Pay practices in relation to living wage indicators such as the federal poverty**
24 **level;**

25 **(c) Efforts to evaluate pay equity based on protected statuses under this state's**
26 **law;**

27 **(d) Facilitating career development opportunities such as apprenticeship**
28 **programs, internships, job-shadowing, and on-the-job training; and**

29 **(e) Employment assistance and employment barriers for justice-affected**
30 **individuals.**

31 **3. Moneys in the fund shall be used only for projects and programs that achieve**
32 **the purposes of the greenhouse gas emissions cap and invest program established under**
33 **sections 260.1111 to 260.1140. Moneys in the fund as described in this subsection shall**
34 **first be appropriated for the administration of the requirements of sections 260.1111 to**
35 **260.1140 in an amount not to exceed five percent of the total receipt of funds from**
36 **allowance auction proceeds under sections 260.1111 to 260.1140.**

37 **4. On July first of the fiscal year beginning three years after the effective date of**
38 **sections 260.1111 to 260.1140 under subsection 8 of section 260.1140, and annually**
39 **thereafter, the state treasurer shall distribute funds in the account as follows:**

40 **(1) Seventy-five percent of the moneys to the climate commitment fund created**
41 **under section 260.1135; and**

42 **(2) Twenty-five percent of the moneys to the natural climate solutions fund**
43 **created under section 260.1136.**

44 **5. The allocations specified under subsection 4 of this section shall be reviewed**
45 **by the general assembly on a biennial basis based on the changing needs of the state in**
46 **meeting its clean economy and greenhouse gas reduction goals in a timely, economically**
47 **advantageous, and equitable manner.**

260.1135. 1. (1) There is hereby created in the state treasury the "Climate
2 **Commitment Fund", which shall consist of moneys distributed from the climate**
3 **investment fund created under section 260.1134. The state treasurer shall be custodian**
4 **of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may**

5 approve disbursements. The fund shall be a dedicated fund and, upon appropriation,
6 moneys in this fund shall be used solely as provided in this section.

7 (2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys
8 remaining in the fund at the end of the biennium shall not revert to the credit of the
9 general revenue fund.

10 (3) The state treasurer shall invest moneys in the fund in the same manner as
11 other funds are invested. Any interest and moneys earned on such investments shall be
12 credited to the fund.

13 2. Projects, activities, and programs eligible for funding from the account shall
14 be physically located in this state and include, but are not limited to:

15 (1) Programs, activities, or projects that reduce and mitigate impacts from
16 greenhouse gases and copollutants in overburdened communities including, but not
17 limited to, strengthening the air quality monitoring network to measure, track, and
18 better understand air pollution levels and trends and to inform the analysis, monitoring,
19 and pollution reduction measures required under section 260.1112;

20 (2) Programs, activities, or projects that deploy renewable energy resources,
21 such as solar and wind power, and projects to deploy distributed generation, energy
22 storage, demand-side technologies and strategies, and other grid modernization
23 projects;

24 (3) Programs, activities, or projects that increase the energy efficiency or reduce
25 greenhouse gas emissions of industrial facilities including, but not limited to, proposals
26 to:

27 (a) Implement combined heat and power, district energy, or on-site renewables
28 such as solar and wind power;

29 (b) Upgrade the energy efficiency of existing equipment;

30 (c) Reduce process emissions; and

31 (d) Switch to less emissions-intensive fuel sources;

32 (4) Programs, activities, or projects that achieve energy efficiency or emissions
33 reductions in the agricultural sector including, but not limited to:

34 (a) Fertilizer management;

35 (b) Soil management;

36 (c) Bioenergy;

37 (d) Biofuels;

38 (e) Grants, rebates, and other financial incentives for agricultural harvesting
39 equipment, heavy-duty trucks, agricultural pump engines, tractors, and other
40 equipment used in agricultural operations;

41 (f) Grants, loans, or any financial incentives to food processors to implement
42 projects that reduce greenhouse gas emissions;

43 (g) Renewable energy projects;

44 (h) Farmworker housing weatherization programs;

45 (i) Dairy digester research and development; and

46 (j) Alternative manure management;

47 (5) Programs, activities, or projects that increase energy efficiency in new and
48 existing buildings, or that promote low-carbon architecture, including use of newly
49 emerging alternative building materials that result in a lower carbon footprint in the
50 built environment over the life cycle of the building and component building materials;

51 (6) Programs, activities, or projects that promote the electrification and
52 decarbonization of new and existing buildings, including residential, commercial, and
53 industrial buildings;

54 (7) Programs, activities, or projects that improve energy efficiency, including
55 district energy, and investments in market transformation of high efficiency electric
56 appliances and equipment for space and water heating;

57 (8) Clean energy transition and assistance programs, activities, or projects that
58 assist affected workers or people with lower incomes during the transition to a clean
59 energy economy, or grow and expand clean manufacturing capacity in communities
60 across this state including, but not limited to:

61 (a) Programs, activities, or projects that directly improve energy affordability
62 and reduce the energy burden of people with lower incomes, as well as the higher
63 transportation fuel burden of rural residents, such as bill assistance, energy efficiency,
64 and weatherization programs;

65 (b) Community renewable energy projects that allow qualifying participants to
66 own or receive the benefits of those projects at reduced or no cost;

67 (c) Programs, activities, or other worker-support projects for bargaining unit
68 and nonsupervisory fossil fuel workers who are affected by the transition away from
69 fossil fuels to a clean energy economy. Worker support may include, but is not limited
70 to:

71 a. Full wage replacement, health benefits, and pension contributions for every
72 worker within five years of retirement;

73 b. Full wage replacement, health benefits, and pension contributions for every
74 worker with at least one year of service for each year of service up to five years of
75 service;

76 c. Wage insurance for up to five years for workers reemployed who have more
77 than five years of service;

78 d. Up to two years of retraining costs including, but not limited to, tuition and
79 related costs, based on in-state community and technical college costs;

80 e. Peer counseling services during transition;

81 f. Employment placement services, prioritizing employment in the clean energy
82 sector; and

83 g. Relocation expenses;

84 (d) Direct investment in workforce development via technical education,
85 community college, institutions of higher education, apprenticeships, and other
86 programs including, but not limited to, initiatives to develop new education
87 programs, emerging fields, or jobs pertaining to the clean energy economy; and

88 (e) Transportation, municipal service delivery, and technology investments that
89 increase a community's capacity for clean manufacturing, with an emphasis on
90 communities in greatest need of job creation and economic development and potential
91 for commute reduction;

92 (9) Programs, activities, or projects that reduce emissions from landfills and
93 waste-to-energy facilities through diversion of organic materials, methane capture or
94 conversion strategies, or other means; and

95 (10) Carbon dioxide removal projects, programs, and activities.

96 3. Moneys in the fund shall not be used for projects or activities that would
97 violate treaty rights or result in significant long-term damage to critical habitat or
98 ecological functions. Investments from this fund shall result in long-term environmental
99 benefits and increased resilience to the impacts of climate change.

260.1136. 1. (1) There is hereby created in the state treasury the "Natural
2 Climate Solutions Fund", which shall consist of moneys distributed to the fund from the
3 climate investment fund created under section 260.1134. The state treasurer shall be
4 custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer
5 may approve disbursements. The fund shall be a dedicated fund and, upon
6 appropriation, moneys in this fund shall be used solely as provided in this section.

7 (2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys
8 remaining in the fund at the end of the biennium shall not revert to the credit of the
9 general revenue fund.

10 (3) The state treasurer shall invest moneys in the fund in the same manner as
11 other funds are invested. Any interest and moneys earned on such investments shall be
12 credited to the fund.

13 2. Moneys in the fund are intended to be used to increase the resilience of the
14 state's waters, forests, and other vital ecosystems to the impacts of climate change,
15 conserve working forestlands at risk of conversion, and increase their carbon pollution

16 reduction capacity through sequestration, storage, and overall system integrity. Moneys
17 in the fund shall be spent in a manner that is consistent with existing and future
18 assessments of climate risks and resilience from the scientific community and expressed
19 concerns of and impacts to overburdened communities.

20 3. Moneys in the fund may be allocated for the following purposes:

21 (1) Clean water investments that improve resilience from climate impacts.

22 Moneys allocated under this subdivision shall be used to:

23 (a) Restore and protect estuaries, fisheries, and shoreline habitats;

24 (b) Reduce flood risk and restore natural floodplain ecological function;

25 (c) Increase the sustainable supply of water and improve aquatic habitat
26 including, but not limited to, groundwater mapping and modeling;

27 (d) Improve infrastructure treating stormwater from previously developed areas
28 within any urban growth boundary designated under state law, with a preference given
29 to projects that use green stormwater infrastructure;

30 (e) Either preserve or increase, or both, carbon sequestration and storage
31 benefits in forests, forested wetlands, agricultural soils, or freshwater or brackish
32 aquatic lands; or

33 (f) Either preserve or establish, or both, carbon sequestration by protecting or
34 planting trees in shorelines and freshwater riparian areas sufficient to promote climate
35 resilience, protect fisheries, and achieve water quality standards; and

36 (2) Healthy forest investments to improve resilience from climate impacts.
37 Moneys allocated under this subdivision shall be used for projects and activities that
38 will:

39 (a) Increase forest and community resilience to wildfire in the face of increased
40 seasonal temperatures and drought;

41 (b) Improve forest health and reduce vulnerability to changes in hydrology,
42 insect infestation, and other impacts of climate change; or

43 (c) Prevent emissions by preserving natural and working lands from the threat
44 of conversion to development or loss of critical habitat through actions that include, but
45 are not limited to, the creation of new conservation lands, community forests, or
46 increased support to small forestland owners through assistance programs. It is the
47 intent of the general assembly that at least ten million dollars be expended each
48 biennium for riparian enhancement programs.

49 4. Moneys in the fund shall not be used for projects that would violate treaty
50 rights or result in significant long-term damage to critical habitat or ecological
51 functions. Investments from the fund shall result in long-term environmental benefits
52 and increased resilience to the impacts of climate change.

260.1137. 1. (1) There is hereby created in the state treasury the "Air Quality and Health Disparities Improvement Fund", which shall consist of moneys collected under sections 260.1111 to 260.1140. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and, upon appropriation, moneys in this fund shall be used solely as provided in this section.

(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

(3) The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. Expenditures from the fund shall:

(1) Improve air quality through the reduction of criteria pollutants including, but not limited to, through effective air quality monitoring and the establishment of adequate baseline emissions data; and

(2) Reduce health disparities in overburdened communities by improving health outcomes through the reduction or elimination of environmental harms and the promotion of environmental benefits.

3. Moneys in the fund may be used for either capital improvements or transportation purposes, or both. Investments from the fund shall result in long-term environmental benefits and increased resilience to the impacts of climate change.

4. It is the intent of the general assembly that at least twenty million dollars per biennium be dedicated to the fund for the purposes of the fund.

260.1138. 1. By December first of the ninth calendar year after the calendar year in which sections 260.1111 to 260.1140 become effective under subsection 8 of section 260.1140, the oversight division of the joint committee on legislative research shall analyze the impacts of the initial five years of program implementation and submit a report summarizing the analysis to the general assembly. The analysis shall include at least the following components:

(1) Costs and benefits, including environmental and public health costs and benefits, associated with sections 260.1111 to 260.1140 for categories of persons participating in the program or that are most impacted by air pollution, as defined in consultation with the department of natural resources and the department of health and senior services and as measured on a census tract scale. Such component of the analysis shall assess at least the costs and benefits of changes in the following metrics since the start of the program:

14 (a) Levels of greenhouse gas emissions and criteria air pollutants for which the
15 United States Environmental Protection Agency has established national ambient air
16 quality standards;

17 (b) Fuel prices; and

18 (c) Total employment in categories of industries that are covered entities. The
19 categories of such industries assessed shall include, but not be limited to, electric
20 utilities, natural gas utilities, oil refineries, and other industries classified as emissions-
21 intensive and trade-exposed;

22 (2) An evaluation of the information provided by the department in its sixth-
23 year program evaluation under section 260.1117;

24 (3) A summary of the estimated total statewide costs and benefits attributable to
25 the program including, but not limited to, state department administrative costs and
26 covered entity compliance costs. For purposes of calculating the benefits of the
27 program, the summary may rely in part on a constant value of the social costs
28 attributable to greenhouse gas emissions as identified in contemporary internationally
29 accepted estimates of such global social cost. Such summary shall include an estimate of
30 the total statewide costs of the program per ton of greenhouse gas emissions reductions
31 achieved by the program; and

32 (4) An evaluation of the impacts of the program on low-income households.

33 2. This section shall expire on June thirtieth of the ninth calendar year after the
34 calendar year in which sections 260.1111 to 260.1140 become effective under subsection
35 8 of section 260.1140.

260.1139. 1. The department may classify air contaminant sources by rule that
2 in its judgment may cause or contribute to air pollution, according to levels and types of
3 emissions and other characteristics that cause or contribute to air pollution, and may
4 require registration or reporting or both for any such class or classes. Classifications
5 made under this section may be for application to the state as a whole or to any
6 designated area within the state and shall be made with special reference to effects on
7 health, economic and social factors, and physical effects on property.

8 2. (1) Except as provided under subsection 3 of this section, any person
9 operating or responsible for the operation of air contaminant sources of any class for
10 which the rules or regulations of the department require registration or reporting shall
11 register with the department and make reports containing such information required by
12 the department concerning location, size and height of contaminant outlets, processes
13 employed, nature of the contaminant emission, and such other information as is relevant
14 to air pollution and available or reasonably capable of being assembled. In the case of

15 emissions of greenhouse gases the department shall adopt rules requiring reporting of
16 such emissions.

17 (2) (a) The department may require that such registration or reporting be
18 accompanied by a fee and may determine the amount of such fee for such class or
19 classes.

20 (b) The amount of such fee shall not exceed the costs of administering such
21 registration or reporting program. Such costs are as follows:

22 a. Initial registration and annual or other periodic reports from the source
23 owner providing information directly related to air pollution registration;

24 b. On-site inspections necessary to verify compliance with registration
25 requirements;

26 c. Data storage and retrieval systems necessary for support of the registration
27 program;

28 d. Emission inventory reports and emission reduction credits computed from
29 information provided by sources under registration program requirements;

30 e. Staff review including, but not limited to, engineering or other reliable
31 analysis for accuracy and currentness of information provided by sources under
32 registration program requirements;

33 f. Clerical and other office support provided in direct furtherance of the
34 registration program; and

35 g. Administrative support provided in directly carrying out the registration
36 program.

37 (c) Any such registration made with the department shall preclude a further
38 registration and reporting with the department, except that emissions of greenhouse
39 gases shall be reported as required under subsection 4 of this section. All registration
40 program and reporting fees collected by the department shall be deposited in the air
41 pollution permit fee subaccount of the natural resources protection fund created under
42 section 640.220. All registration program fees collected by local air authorities shall be
43 deposited in the respective treasuries of such authorities.

44 3. (1) As used in this subsection, the following terms mean:

45 (a) "Grain", the same definition as under section 411.026;

46 (b) "Grain warehouse" or "grain elevator", a grain warehouse subject to
47 regulation under the Missouri grain warehouse law as established in chapter 411 that is
48 classified in standard industrial classification (SIC) code 5153 for wholesale trade for
49 which a license is required and includes, but is not limited to, such a licensed facility that
50 also conducts cleaning operations for grain;

51 (c) "License", a license issued by the department of agriculture licensing a
52 facility as a grain warehouse or grain elevator under chapter 411 or a license issued by
53 the federal government licensing a facility as a grain warehouse or grain elevator for
54 purposes similar to those of licensure for the facility under chapter 411.

55 (2) If a registration or report has been filed for a grain warehouse or grain
56 elevator as required under this section, no subsequent registration, reporting, or a
57 registration program fee shall be required under this section for the warehouse or
58 elevator unless the capacity of the warehouse or elevator as listed as part of the license
59 issued for the facility has been increased since the date the registration or reporting was
60 last made. If the capacity of the warehouse or elevator listed as part of the license is
61 increased, any registration or reporting required for the warehouse or elevator under
62 this section shall be made by the date the warehouse or elevator receives grain from the
63 first harvest season that occurs after the increase in its capacity is listed in the license.
64 This subsection shall not be construed to apply to a grain warehouse or grain elevator if
65 the warehouse or elevator handles more than ten million bushels of grain annually.

66 4. (1) The department shall adopt rules requiring persons to report emissions of
67 greenhouse gases where such emissions from a single facility or from electricity or fossil
68 fuels sold in this state by a single supplier or local distribution company meet or exceed
69 ten thousand metric tons of carbon dioxide equivalent annually. The rules adopted by
70 the department shall support implementation of the program created under section
71 260.1116. Such rules shall require at least that:

72 (a) Emissions of greenhouse gases resulting from the combustion of fossil fuels
73 be reported separately from emissions of greenhouse gases resulting from the
74 combustion of biomass; and

75 (b) Each annual report shall include emissions data for the preceding calendar
76 year and be submitted to the department by March thirty-first of the year in which the
77 report is due.

78 (2) (a) The department may by rule include additional gases not listed in the
79 definition of greenhouse gas under section 260.1111 only if the gas has been designated
80 as a greenhouse gas by the United States Congress, by the United States Environmental
81 Protection Agency, or included in external greenhouse gas emission trading programs in
82 which the state participates. Prior to including such additional gases in the definition of
83 greenhouse gas, the department shall notify the appropriate committees of the general
84 assembly.

85 (b) The department may by rule exempt persons who are required to report
86 greenhouse gas emissions to the United States Environmental Protection Agency and
87 who emit less than ten thousand metric tons carbon dioxide equivalent annually.

88 (c) The department shall establish a methodology for persons who are not
89 required to report under this section to voluntarily report greenhouse gas emissions.

90 (3) (a) The department shall review and if necessary update its rules when:

91 a. The United States Environmental Protection Agency adopts final amendments
92 to 40 CFR Part 98 to ensure consistency with federal reporting requirements for
93 emissions of greenhouse gases; or

94 b. Needed to ensure consistency with emissions reporting requirements for
95 jurisdictions with which this state has entered a linkage agreement.

96 (b) The department shall not amend its rules in a manner that conflicts with this
97 section.

98 (4) The department shall share any reporting information reported to it with the
99 local air authority in which the person reporting under the rules adopted by the
100 department operates.

101 (5) The fee provisions under subsection 2 of this section apply to reporting of
102 emissions of greenhouse gases. Persons required to report under subdivision (1) of this
103 subsection who fail to report or pay the fee required under subsection 2 of this section
104 are subject to enforcement penalties under sections 260.1111 to 260.1140. The
105 department shall enforce the reporting rule requirements. When a person who holds a
106 compliance obligation under section 260.1118 fails to submit an emissions data report or
107 fails to obtain a positive emissions data verification statement in accordance with
108 paragraph (b) of subdivision (7) of this subsection, the department may assign an
109 emissions level for such person.

110 (6) The department shall adopt rules that impose greenhouse gas reporting
111 requirements in site certifications on owners or operators of a facility permitted by the
112 department.

113 (7) (a) The department shall establish by rule the methods of verifying the
114 accuracy of emissions reports.

115 (b) Verification requirements apply at a minimum to persons required to report
116 under subdivision (1) of this subsection with emissions that equal or exceed twenty-five
117 thousand metric tons of carbon dioxide equivalent emissions including, but not limited
118 to, carbon dioxide from biomass-derived fuels, or to persons who have a compliance
119 obligation under section 260.1118 in any year of the current compliance period.

120 (8) As used in this subsection, the following terms mean:

121 (a) "Electric power entity" includes, but is not limited to, any of the following
122 that supply electric power in this state with associated emissions of greenhouse gases
123 equal to or above the threshold established under subdivision (1) of this subsection:

124 a. Electricity importers and exporters;

125 **b. Retail providers including, but not limited to, multijurisdictional retail**
126 **providers; and**

127 **c. First jurisdictional deliverers, which are owners or operators of an electric**
128 **generating facility in this state or electricity importers not otherwise included in this**
129 **paragraph;**

130 **(b) "Facility" includes facilities that directly emit greenhouse gases in this state**
131 **equivalent to the threshold established under subdivision (1) of this subsection with at**
132 **least one source category listed in the United States Environmental Protection Agency's**
133 **mandatory greenhouse gas reporting regulation, 40 CFR Part 98, Subparts C to II and**
134 **RR to UU;**

135 **(c) "Person" includes:**

136 **a. An owner or operator of a facility;**

137 **b. A supplier; or**

138 **c. An electric power entity;**

139 **(d) "Supplier" includes:**

140 **a. Suppliers that produce, import, or deliver, or any combination of producing,**
141 **importing, or delivering, a quantity of fuel products in this state that, if completely**
142 **combusted, oxidized, or used in other processes, would result in the release of**
143 **greenhouse gases in this state equivalent to or higher than the threshold established**
144 **under subdivision (1) of this subsection; or**

145 **b. Suppliers of carbon dioxide that produce, import, or deliver a quantity of**
146 **carbon dioxide in this state that, if released, would result in emissions equivalent to or**
147 **higher than the threshold established under subdivision (1) of this subsection.**

260.1140. 1. The review under sections 260.1111 to 260.1140 of greenhouse gas
2 **emissions from a new or expanded facility subject to the greenhouse gas emission**
3 **reduction requirements of sections 260.1111 to 260.1140 shall occur consistently with**
4 **section 260.1118.**

5 **2. The department or a local air authority shall issue an enforceable order under**
6 **sections 260.1111 to 260.1140, consistent with subdivisions (2) and (3) of subsection 2 of**
7 **section 261.1112, to all permitted or registered sources operating in overburdened**
8 **communities when, consistent with subdivision (1) of subsection 2 of section 261.1112,**
9 **the department determines that criteria pollutants are not being reduced in an**
10 **overburdened community and the department or local air authority adopts stricter air**
11 **quality standards, emissions standards, or emissions limitations on criteria pollutants.**

12 **3. The state, state departments, and political subdivisions of the state, in**
13 **implementing duties and authorities established under other provisions of law, shall**
14 **only consider any greenhouse gas limits adopted in this state in a manner that**

15 recognizes, where applicable, that the siting and placement of new or expanded best-in-
16 class facilities with lower carbon emitting processes is in the economic and
17 environmental interests of this state.

18 4. (1) The enforcement of sections 260.1116 to 260.1131, and any rules adopted
19 by the department to implement the program established under such sections, shall be
20 suspended five years after the department determines that any final overall emissions of
21 greenhouse gases limits established under subsection 7 of section 260.1116 have been met
22 for two or more consecutive years.

23 (2) Upon the occurrence of the events identified under subdivision (1) of this
24 section, the department shall provide written notice of the suspension date of sections
25 260.1116 to 260.1131 to affected parties, the chief clerk of the house of representatives,
26 the secretary of the senate, the revisor of statutes, and others as deemed appropriate by
27 the department.

28 5. (1) The department shall prepare, post on the department website, and
29 submit to the appropriate committees of the general assembly an annual report that
30 identifies all distributions of moneys from the funds created under sections 260.1133 to
31 260.1137.

32 (2) The report shall identify at a minimum:

33 (a) The recipients of the moneys;

34 (b) The amounts disbursed;

35 (c) The purpose of disbursing the moneys;

36 (d) The actual end result or use of the moneys;

37 (e) Whether the project that received the moneys produced any verifiable
38 reduction in greenhouse gas emissions or other long-term impact to emissions and if so,
39 the quantity of reduced greenhouse gas emissions;

40 (f) The cost per carbon dioxide equivalent metric ton of reduced greenhouse gas
41 emissions; and

42 (g) A comparison to other greenhouse gas emissions reduction projects in order
43 to facilitate the development of cost-benefit ratios for greenhouse gas emissions
44 reduction projects.

45 (3) The department shall require by rule that recipients of moneys from the
46 funds created under sections 260.1133 to 260.1137 report to the department, in a form
47 and manner prescribed by the department, the information required for the department
48 to carry out the department's duties established in this section.

49 (4) The department shall update its website with the information described
50 under subdivision (2) of this section as appropriate but at least once per calendar year.

51 **(5) The department shall submit its report to the appropriate committees of the**
52 **general assembly with the information described under subdivision (2) of this section**
53 **before November first of each year.**

54 **6. (1) The department may promulgate all necessary rules and regulations for**
55 **the administration of sections 261.1111 to 260.1140.**

56 **(2) The department may adopt emergency rules for initial implementation of the**
57 **program and to ensure that reporting and other program requirements are determined**
58 **early for the purpose of program design and early notice to registered entities with a**
59 **compliance obligation under the program.**

60 **(3) Any rule or portion of a rule, as that term is defined in section 536.010, that is**
61 **created under the authority delegated in this section shall become effective only if it**
62 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
63 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
64 **vested with the general assembly pursuant to chapter 536 to review, to delay the**
65 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**
66 **then the grant of rulemaking authority and any rule proposed or adopted after August**
67 **28, 2022, shall be invalid and void.**

68 **7. If any provision of sections 260.1111 to 260.1140 or its application to any**
69 **person or circumstance is held invalid, the remainder of sections 260.1111 to 260.1140 or**
70 **the application of the provision to other persons or circumstances shall not be affected.**

71 **8. Sections 260.1111 to 260.1140 shall become effective on January 1, 2023.**

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