
SENATE BILL 5698

State of Washington

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By Senators Ramos and Nobles

Read first time 02/07/25. Referred to Committee on Environment,
Energy & Technology.

1 AN ACT Relating to the compliance obligation under the climate
2 commitment act for certain municipal gas utilities; amending RCW
3 70A.65.080 and 70A.65.130; and adding a new section to chapter 70A.65
4 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 70A.65
7 RCW to read as follows:

8 (1) A municipal gas utility subject to the provisions of chapter
9 35.92 RCW whose associated greenhouse gas emissions did not exceed
10 27,000 metric tons of carbon dioxide equivalent during any year prior
11 to 2022 may elect to pursue the alternative emission reduction
12 pathway authorized under this section in lieu of remaining a covered
13 entity under this chapter. If a municipal gas utility elects to
14 pursue the alternative emission reduction pathway under this section,
15 the department must adopt an emergency rule to adjust the allowance
16 budget of the program applicable to years 2026 and beyond.

17 (2) A municipal gas utility electing to pursue the alternative
18 emission reduction pathway authorized under this section must submit
19 written notice to the department by September 1, 2025, informing the
20 department of its intent to elect the alternative emission reduction
21 pathway. This notice must be accompanied by a plan that meets the

1 requirements of subsection (3) of this section. If the department
2 reviews the plan and determines that it meets the requirements of
3 subsection (3) of this section, the department must notify the
4 utility that its plan has been approved, and the municipal gas
5 utility is relieved of its compliance obligation as of December 31,
6 2025.

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

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

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

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

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

38 (b) In the event that a municipal gas utility implementing an
39 alternative emission reduction pathway has covered emissions during
40 any year after 2030 that exceed 22,500 tons of carbon dioxide

1 equivalent, the municipal gas utility must become a covered entity
2 effective as of the year its emissions exceeded 22,500 tons of carbon
3 dioxide equivalent. A utility electing an alternative emission
4 reduction pathway whose covered emissions exceeds 22,500 tons of
5 carbon dioxide equivalent in any year after 2030 must also submit
6 penalty compliance instruments in an amount equal to one compliance
7 instrument for each ton of emissions that were not covered by the
8 program during the years 2026 through the year that the utility
9 resumed a compliance obligation under this chapter as a covered
10 entity.

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

13 (1) A person is a covered entity as of the beginning of the first
14 compliance period and all subsequent compliance periods if the person
15 reported emissions under RCW 70A.15.2200 for any calendar year from
16 2015 through 2019, or if additional data provided as required by this
17 chapter indicates that emissions for any calendar year from 2015
18 through 2019 equaled or exceeded any of the following thresholds, or
19 if the person is a first jurisdictional deliverer and imports
20 electricity into the state during the compliance period:

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

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

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

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

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

36 (C) For electricity purchased from a federal power marketing
37 administration pursuant to section 5(b) of the Pacific Northwest
38 electric power planning and conservation act of 1980, P.L. 96-501, if
39 the department determines such electricity is not from a specified

1 source, the cumulative annual total of emissions associated with the
2 imported electricity exceeds 25,000 metric tons of carbon dioxide
3 equivalent.

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

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

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

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

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

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

9 (3) A person is a covered entity as of the beginning of the third
10 compliance period, and all subsequent compliance periods if the
11 person reported emissions under RCW 70A.15.2200 or provided emissions
12 data as required by this chapter for 2027 or 2028, where the person
13 owns or operates a railroad company, as that term is defined in RCW
14 81.04.010, and the railroad company's emissions equal or exceed
15 25,000 metric tons of carbon dioxide equivalent.

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

33 (5) For types of emission sources described in subsection (1) of
34 this section that begin or modify operation after January 1, 2023,
35 and types of emission sources described in subsection (2) of this
36 section that begin or modify operation after 2027, coverage under the
37 program starts in the calendar year in which emissions from the
38 source exceed the applicable thresholds in subsection (1) or (2) of
39 this section, or upon formal notice from the department that the
40 source is expected to exceed the applicable emissions threshold,

1 whichever happens first. Sources meeting these conditions are
2 required to transfer their first allowances on the first transfer
3 deadline of the year following the year in which their emissions were
4 equal to or exceeded the emissions threshold.

5 (6) For emission sources described in subsection (1) of this
6 section that are in operation or otherwise active between 2015 and
7 2019 but were not required to report emissions for those years under
8 RCW 70A.15.2200 for the reporting periods between 2015 and 2019,
9 coverage under the program starts in the calendar year following the
10 year in which emissions from the source exceed the applicable
11 thresholds in subsection (1) of this section as reported pursuant to
12 RCW 70A.15.2200 or provided as required by this chapter, or upon
13 formal notice from the department that the source is expected to
14 exceed the applicable emissions threshold for the first year that
15 source is required to report emissions, whichever happens first.
16 Sources meeting these criteria are required to transfer their first
17 allowances on the first transfer deadline of the year following the
18 year in which their emissions, as reported under RCW 70A.15.2200 or
19 provided as required by this chapter, were equal to or exceeded the
20 emissions threshold.

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

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

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

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

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

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

39 (ii) The department must determine a method for expanding the
40 exemption provided under (e)(i) of this subsection to include fuels

1 used for the purpose of transporting agricultural products on public
2 highways. The department must maintain this expanded exemption for a
3 period of five years, in order to provide the agricultural sector
4 with a feasible transition period;

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

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

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

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

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

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

38 (d) Covered emissions from an entity that is or will be a covered
39 entity under this chapter may not be the basis for denial of a permit
40 for a new or expanded facility. Covered emissions must be included in

1 the analysis undertaken pursuant to (c) of this subsection. Nothing
2 in this subsection requires a lead agency or a permitting agency to
3 approve or issue a permit to a permit applicant, including to a new
4 or expanded fossil fuel project.

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

13 **Sec. 3.** RCW 70A.65.130 and 2021 c 316 s 15 are each amended to
14 read as follows:

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

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

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

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

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

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

17 (c) Except for low-income customers, the customer bill credits
18 under this subsection are reserved exclusively for customers at
19 locations connected to a natural gas utility's system on July 25,
20 2021. Bill credits may not be provided to customers of the gas
21 utility at a location connected to the system after July 25, 2021.

22 (3) In order to qualify for no cost allowances, covered entities
23 that are natural gas utilities must provide copies of their
24 greenhouse gas emissions reports filed with the United States
25 environmental protection agency under 40 C.F.R. Part 98 subpart NN -
26 suppliers of natural gas and natural gas liquids for calendar years
27 2015 through 2021 to the department on or before March 31, 2022. The
28 copies of the reports must be provided in electronic form to the
29 department, in a manner prescribed by the department. The reports
30 must be complete and contain all information required by 40 C.F.R.
31 Sec. 98.406 including, but not limited to, information on large end
32 users served by the natural gas utility. For any year where a natural
33 gas utility was not required to file this report with the United
34 States environmental protection agency, a report may be submitted in
35 a manner prescribed by the department containing all of the
36 information required in the subpart NN report.

37 (4) To continue receiving no cost allowances, a natural gas
38 utility must provide to the department the United States
39 environmental protection agency subpart NN greenhouse gas emissions
40 report for each reporting year in the manner and by the dates

1 provided by RCW 70A.15.2200(5) as part of the greenhouse gas
2 reporting requirements of this chapter.

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