

2SSB 5842 - S AMD 1090

By Senators Short, Carlyle

ADOPTED 02/11/2022

1 On page 30, after line 26, insert the following:

2 **"Sec. 13.** RCW 70A.65.170 and 2021 c 316 s 19 are each amended to
3 read as follows:

4 (1) The department shall adopt by rule the protocols for
5 establishing offset projects and securing offset credits that may be
6 used to meet a portion of a covered or opt-in entity's compliance
7 obligation under chapter 316, Laws of 2021. The protocols adopted by
8 the department under this section must align with the policies of the
9 state established under RCW 70A.45.090 and 70A.45.100.

10 (2) Offset projects must:

11 (a) Provide direct environmental benefits to the state or be
12 located in a jurisdiction with which Washington has entered into a
13 linkage agreement;

14 (b) Result in greenhouse gas reductions or removals that:

15 (i) Are real, permanent, quantifiable, verifiable, and
16 enforceable; and

17 (ii) Are in addition to greenhouse gas emission reductions or
18 removals otherwise required by law and other greenhouse gas emission
19 reductions or removals that would otherwise occur; and

20 (c) Have been certified by a recognized registry (~~after July 25,~~
21 ~~2021, or within two years prior to July 25, 2021~~).

22 (3) (a) A total of no more than five percent of a covered or opt-
23 in entity's compliance obligation during the first compliance period
24 may be met by transferring offset credits. During these years, at
25 least 50 percent of a covered or opt-in entity's compliance
26 obligation satisfied by offset credits must be sourced from offset
27 projects that provide direct environmental benefits in the state.

28 (b) A total of no more than four percent of a covered or opt-in
29 entity's compliance obligation during the second compliance period
30 may be met by transferring offset credits. During these years, at
31 least 75 percent of a covered or opt-in entity's compliance
32 obligation satisfied by offset credits must be sourced from offset

1 projects that provide direct environmental benefits in the state. The
2 department may reduce the 75 percent requirement if it determines
3 there is not sufficient offset supply in the state to meet offset
4 demand during the second compliance period.

5 (c) The limits in (a) and (b) of this subsection may be modified
6 by rule as adopted by the department when appropriate to ensure
7 achievement of the proportionate share of statewide emissions limits
8 established in RCW 70A.45.020 and to provide for alignment with other
9 jurisdictions to which the state has linked.

10 (d) The limits in (a) and (b) of this subsection may be reduced
11 for a specific covered or opt-in entity if the department determines,
12 in consultation with the environmental justice council, that the
13 covered or opt-in entity has or is likely to:

14 (i) Contribute substantively to cumulative air pollution burden
15 in an overburdened community as determined by criteria established by
16 the department, in consultation with the environmental justice
17 council; or

18 (ii) Violate any permits required by any federal, state, or local
19 air pollution control agency where the violation may result in an
20 increase in emissions.

21 (e) An offset project on federally recognized tribal land does
22 not count against the offset credit limits described in (a) and (b)
23 of this subsection. No more than three percent of a covered or opt-in
24 entity's compliance obligation may be met by transferring offset
25 credits from projects on federally recognized tribal land during the
26 first compliance period. No more than two percent of a covered or
27 opt-in entity's compliance obligation may be met by transferring
28 offset credits from projects on federally recognized tribal land
29 during the second compliance period.

30 (4) In adopting protocols governing offset projects and covered
31 and opt-in entities' use of offset credits, the department shall:

32 (a) Take into consideration standards, rules, or protocols for
33 offset projects and offset credits established by other states,
34 provinces, and countries with programs comparable to the program
35 established in this chapter;

36 (b) Encourage opportunities for the development of offset
37 projects in this state by adopting offset protocols that may include,
38 but need not be limited to, protocols that make use of aggregation or
39 other mechanisms to reduce transaction costs related to the

1 development of offset projects and that support the development of
2 carbon dioxide removal projects;

3 (c) Adopt a process for monitoring and invalidating offset
4 credits as necessary to ensure the credit reflects emission
5 reductions or removals that continue to meet the standards required
6 by subsection (1) of this section. If an offset credit is
7 invalidated, the covered or opt-in entity must, within six months of
8 the invalidation, transfer replacement credits or allowances to meet
9 its compliance obligation. Failure to transfer the required credits
10 or allowances is a violation subject to penalties as provided in RCW
11 70A.65.200; and

12 (d) Make use of aggregation or other mechanisms, including cost-
13 effective inventory and monitoring provisions, to increase the
14 development of offset and carbon removal projects by landowners
15 across the broadest possible variety of types and sizes of lands,
16 including lands owned by small forestland owners.

17 (5) Any offset credits used (~~may not~~) must:

18 (a) Not be in addition to or allow for an increase in the
19 emissions limits established under RCW 70A.45.020, as reflected in
20 the annual allowance budgets developed under RCW 70A.65.070;

21 (b) Have been issued for reporting periods wholly after the
22 effective date of this section or within two years prior to the
23 effective date of this section; and

24 (c) Be consistent with offset protocols adopted by the
25 department.

26 (6) The offset credit must be registered and tracked as a
27 compliance instrument.

28 (7) Beginning in 2031, the limits established in subsection (3)
29 of this section apply unless modified by rule as adopted by the
30 department after a public consultation process."

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31 On page 1, beginning on line 3 of the title, after "70A.65.010,"
32 strike "and 70A.65.140" and insert "70A.65.140, and 70A.65.170"

within two years prior to or wholly after the effective date of the section, rather than certified by a recognized registry. Directs that offset credits must also be consistent with offset protocols adopted by the Department of Ecology.

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