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**SENATE BILL 5918**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Senators Van De Wege and MacEwen

AN ACT Relating to the allocation of allowances under chapter 70A.65 RCW, the Washington climate commitment act; and amending RCW 70A.65.120.

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

**Sec.**  RCW 70A.65.120 and 2021 c 316 s 14 are each amended to read as follows:

(1) The legislature intends by this section to allow all consumer-owned electric utilities and investor-owned electric utilities subject to the requirements of chapter 19.405 RCW, the Washington clean energy transformation act, and nonutility-owned electric generating facilities in Washington, to be eligible for allowance allocation as provided in this section in order to mitigate the cost burden of the program on electricity customers.

(2)(a) By October 1, 2022, the department shall adopt rules, in consultation with the department of commerce and the utilities and transportation commission, establishing the methods and procedures for allocating allowances for consumer-owned and investor-owned electric utilities. The rules must take into account the cost burden of the program on electricity customers.

(b) By October 1, 2022, the department shall adopt an allocation schedule by rule, in consultation with the department of commerce and the utilities and transportation commission, for the first compliance period for the provision of allowances at no cost to consumer-owned and investor-owned electric utilities. This allocation must be consistent with a forecast, that is approved by the appropriate governing board or the utilities and transportation commission, of each utility's supply and demand, and the cost burden resulting from the inclusion of the covered entities in the first compliance period.

(c) By October 1, 2026, the department shall adopt an allocation schedule by rule, in consultation with the department of commerce and the utilities and transportation commission, for the provision of allowances for the second compliance period at no cost to consumer-owned and investor-owned electric utilities. This allocation must be consistent with a forecast, that is approved by the appropriate governing board or the utilities and transportation commission, of each utility's supply and demand, and the cost burden resulting from the inclusion of covered entities in the second compliance period. The allowances included in this schedule must reflect the increased scope of coverage in the electricity sector relative to the program budget of allowances established in 2022.

(d) By October 1, 2028, the department shall adopt an allocation schedule by rule, in consultation with the department of commerce and the utilities and transportation commission, for the provision of allowances at no cost to consumer-owned and investor-owned electric utilities for the compliance periods contained within calendar years 2031 through 2045. This allocation must be consistent with a forecast, that is approved by the appropriate governing board or the utilities and transportation commission, of each utility's supply and demand, and the cost burden resulting from the inclusion of the covered entities in the compliance periods. The rule developed under this subsection (2)(d) may prescribe an amount of allowances allocated at no cost that must be consigned to auction by consumer-owned and investor-owned electric utilities. However, utilities may use allowances for compliance equal to their covered emissions in any calendar year they were not subject to potential penalty under RCW 19.405.090. Under no circumstances may utilities receive any free allowances after 2045.

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

(b) By October 1, 2026, the department, in consultation with the department of commerce and the utilities and transportation commission, must adopt rules governing the amount of allowances allocated at no cost under subsection (2)(c) of this section that must be consigned to auction. For calendar year 2030, electric utilities may use allowances for compliance equal to their covered emissions if not subject to potential penalty under RCW 19.405.090.

(4) The benefits of all allowances consigned to auction under this section must be used by consumer-owned and investor-owned electric utilities for the benefit of ratepayers, with the first priority the mitigation of any rate impacts to low-income customers.

(5) If an entity is identified by the department as an emissions-intensive, trade-exposed industry under RCW 70A.65.110, unless allowances have been otherwise allocated for electricity-related emissions to the entity under RCW 70A.65.110 or to a consumer-owned utility under this section, the department shall allocate allowances at no cost to the electric utility or power marketing administration that is providing electricity to the entity in an amount equal to the forecasted emissions for electricity consumption for the entity for the compliance period.

(6) The department shall allow for allowances to be transferred between a power marketing administration and electric utilities and used for direct compliance.

(7) Rules establishing the allocation of allowances to consumer-owned utilities and investor-owned utilities must consider the impact of electrification of buildings, transportation, and industry on the electricity sector.

(8) In order to mitigate the cost burden of the program on Washington electricity consumers, covered entities that own or operate electric generating facilities classified under North American industry classification system code 221112 and operating in Washington as of July 25, 2021, that are not owned or operated by electric utilities must receive an allocation of no cost allowances for a portion of the covered emissions of those facilities, and for the administrative costs of the program for those facilities, as set forth in this subsection.

(a) The number of no cost allowances to be distributed to a facility identified under this subsection for the 2023 compliance year must be equal to the facility's covered emissions during 2023 that are attributable to the facility's generation of electric power with a final point of delivery in Washington. By August 10, 2024, the covered entity owning or operating the facility must submit to the department a report quantifying the facility's 2023 covered emissions that are attributable to the facility's generation of electric power with a final point of delivery in Washington. The department shall review and approve the facility's report by September 15, 2024, and shall transfer the no cost allowances authorized under this subsection to the compliance account of the covered entity by October 24, 2024.

(b) For program compliance years from 2024 through 2044:

(i) The annual allocation of no cost allowances to be distributed to a facility identified under this subsection must be equal to the facility's covered emissions, subject to certification required under (b)(ii) of this subsection, for each compliance year that are attributable to the facility's generation of electric power with a final point of delivery in Washington. For each compliance year, the department shall transfer these no cost allowances to the compliance account of the facility by October 24th of the succeeding calendar year.

(ii) By August 10, 2025, and by August 10th of each year thereafter, facilities identified under this subsection must submit to the department a certified report quantifying the facility's covered emissions from the preceding year that are attributable to the facility's generation of electric power with a final point of delivery in Washington. The department shall, by October 24, 2025, adopt rules setting forth the contents to be included in the certified report required under this subsection (8)(b)(ii) and the department is authorized to audit the reports and the assessments contained therein for accuracy pursuant to rules to be adopted by the department. The certified reports, submitted to the department by August 10th of each year, are deemed reviewed and approved by the department as of September 15th of the year of submission unless the department has, by that date, commenced an audit of the facility's report for that year and notified the facility in writing of such an audit.

(c) For all compliance years of the program through 2044, a facility identified under this subsection must receive an allocation of no cost allowances to account for the administrative costs of the program. The no cost allowances for each compliance year must be transferred to the compliance account of the facility by October 24th of the succeeding calendar year.

(d) To the extent that a facility identified under this subsection incurs a compliance obligation during any compliance period exceeding the number of no cost allowances allocated pursuant to this subsection, that facility must acquire compliance instruments in quantities adequate to meet its compliance obligation under RCW 70A.65.310.

(e) For covered emissions produced on or after January 1, 2045, a facility identified under this subsection receives zero no cost allowances.

(9) Nothing in this section affects the requirements of chapter 19.405 RCW.

((~~(9)~~)) (10) A consumer-owned utility that is party to a contract that meets the following conditions must be issued allowances under this section for emissions associated with imported electricity, in order to prevent impairment of the value of the contract to either party:

(a) The contract does not address compliance costs imposed upon the consumer-owned utility by the program created in this chapter; and

(b) The contract was in effect as of July 25, 2021, and expires no later than the end of the first compliance period.

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