
Environment & Energy Committee

HB 2249

Brief Description: Ensuring transparency regarding the impacts of allowing general market participants, including financial speculators, to participate in climate commitment act markets.

Sponsors: Representative Dye.

Brief Summary of Bill

- Requires the Washington State Institute for Public Policy to periodically publish and submit a report to the Legislature quantifying the cost impacts to allowance prices under the Climate Commitment Act attributable to the acquisition and sale of compliance instruments by general market participants (GMPs).
- Requires the Department of Ecology to publish reports on its website regarding GMP activities at the conclusion of each allowance auction and each compliance period.

Hearing Date: 1/25/24

Staff: Jacob Lipson (786-7196).

Background:

Under the 2021 Climate Commitment Act (CCA), in order to ensure that greenhouse gas (GHG) emissions are reduced consistent with the state's 2030, 2040, and 2050 emissions limits, the Department of Ecology (Ecology) must implement a cap on GHG emissions from covered entities and a program to track, verify, and enforce compliance through the use of compliance instruments, which include allowances or eligible offset credits. The Cap-and-Invest Program (Program) commenced on January 1, 2023.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

The Program:

- establishes annual allowance budgets that limit emissions from covered entities;
- defines those entities covered by the Program (covered entities), those entities that may voluntarily opt into coverage under the Program (opt-in entities), and other persons that participate in auctions or allowance markets by purchasing, holding, selling, or voluntarily retiring compliance instruments (general market participants);
- provides for the distribution of emissions allowances at no cost to certain covered entities, or by purchase at auction;
- provides for offset credits as a method for meeting compliance obligations;
- defines the compliance obligations of covered entities;
- provides for the transfer of allowances and recognition of compliance instruments, including those issued by jurisdictions with which Washington may have linkage agreements in the future; and
- provides monitoring and oversight of the sale and transfer of allowances.

Compliance obligations under the Program are phased in over the following 4-year compliance periods:

- first compliance period: 2023 through 2026;
- second compliance period: 2027 through 2030; and
- subsequent 4-year compliance periods beginning in 2031.

The annual allowance budgets established under the Program must be set to achieve the share of reductions by covered entities necessary to achieve the state's 2030, 2040, and 2050 emissions limits. Annual allowance budgets must be set such that the use of offsets as compliance instruments does not prevent the achievement of the state's emissions limits.

Three types of entities may participate in allowance auctions and buy and sell allowances in secondary compliance instrument markets:

- covered entities, such as facilities and electricity and fossil fuel suppliers, with annual GHG emissions equal to or exceeding 25,000 metric tons of carbon dioxide equivalent. All covered entities must register to participate in the Program;
- opt-in entities: a person responsible for GHG emissions that is not a covered entity may voluntarily participate in the Program by registering as an opt-in entity. An opt-in entity is not eligible to receive directly distributed, no-cost allowances that are available to covered emissions-intensive, trade-exposed facilities, natural gas utilities, or electric utilities; and
- general market participants (GMPs): a person that is neither a covered entity nor an opt-in entity may voluntarily participate in the Program as a GMP, and may purchase, hold, sell, or voluntarily retire compliance instruments. Federally recognized Indian tribes and federal agencies may elect to participate in the Program as opt-in entities or GMPs.

Except for directly distributed, no-cost allowances allocated to certain entities, allowances must be distributed via allowance auctions. Auctions are open to covered entities, opt-in entities, and GMPs that are registered entities in good standing.

Covered entities and opt-in entities may not buy more than 10 percent of the allowances offered during a single auction. General market participants may not buy more than 4 percent of the allowances offered during a single auction, and may not in aggregate own more than 10 percent of the total number of allowances issued in a calendar year.

Ecology's CCA rules establish a reserve auction floor price to limit extraordinary prices and to determine when to offer allowances through allowance price containment reserve (APCR) auctions. The APCR is designed as a mechanism to assist in containing compliance costs for covered and opt-in entities in the event of unanticipated high costs for compliance instruments. Allowance price containment reserve auctions are held when the settlement prices in the preceding auction exceed the reserve auction floor price. Only covered and opt-in entities may participate in the auction of allowances from the APCR.

Ecology's CCA rules also establish a price ceiling to provide cost protection for covered entities. The price ceiling must increase annually in proportion to the reserve auction floor price. In the event that no allowances remain in the APCR, Ecology must issue the number of price ceiling units (PCUs) for sale sufficient to provide cost protection for covered and opt-in entities. Purchases of PCUs must be limited to entities that do not have sufficient eligible compliance instruments for the next compliance period, and these entities may only purchase what they need to meet their compliance obligation for the current compliance period.

All covered and opt-in entities are required to submit compliance instruments in a timely manner to meet their compliance obligations and must comply with all requirements for monitoring, reporting, holding, and transferring emission allowances. If a covered or opt-in entity does not submit sufficient compliance instruments to meet its compliance obligation by the specified transfer dates, a penalty of four allowances for every one compliance instrument that is missing must be submitted to Ecology within six months. When a covered or opt-in entity reasonably believes that it will be unable to meet a compliance obligation, the entity must immediately notify Ecology.

The following CCA records are confidential and are exempt from public disclosure in their entirety:

- auction bidding information;
- information contained in Ecology's secure, online electronic tracking form used to register entities, issue compliance instruments, track ownership, enable transfers, facilitate Program compliance, and support market oversight; and
- financial, proprietary, and other market-sensitive information, as determined by Ecology, submitted to Ecology, the independent contractor, the financial services administrator engaged by Ecology, or a linked jurisdiction.

Summary of Bill:

By December 1, 2025, the Washington State Institute for Public Policy (WSIPP) must publish

and submit a report to the Legislature evaluating the Climate Commitment Act (CCA) program performance outcomes associated with the participation of general market participants (GMPs). The evaluation must attempt to quantify the allowance price cost impacts of the policy decision to allow GMPs to acquire and sell compliance instruments. The WSIPP may contract with neutral independent third parties to assist in this evaluation, but contracted entities may not have received a contract related to GHG market programs from a GMP or had similar GMP affiliations during the preceding five years. The Department of Ecology (Ecology) must share compliance instrument market information with the WSIPP, including confidential information that is exempt from disclosure under the CCA, and may require the WSIPP to treat shared information as confidential. If GMPs continue to be authorized to participate in the CCA, the WSIPP must update its evaluation and submit updated reports to the Legislature by December 1 of each odd-numbered year.

At the conclusion of each auction of allowances, including allowance price containment reserve auctions, Ecology must publish on its website:

- the number of allowances purchased by GMPs;
- the proportion of allowances purchased by GMPs relative to the total number of allowances auctioned; and
- the cumulative proportion of allowances purchased by GMPs relative to the total number of allowances auctioned dating to the start of the compliance period.

At the conclusion of each 4-year compliance period, Ecology must publish on its website:

- the total number of compliance instruments that were held at one time by a GMP;
- the proportion of compliance instruments that were held by GMPs relative to the total number of allowances retired during that compliance period;
- the number of transactions of compliance instruments involving at least one GMP;
- a rank-ordered list of the most active general market participants; and
- the average gross profit margin of each GMP during the preceding compliance period, whether positive or negative.

The information that Ecology must publish after each auction or compliance period is not confidential or exempt from public disclosure under the CCA.

Appropriation: None.

Fiscal Note: Requested on January 16, 2024.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.