

E2SHB 2416 - S COMM AMD

By Committee on Environment, Energy & Technology

OUT OF ORDER 03/04/2026

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature intends to treat all
4 municipal solid waste management systems fairly and equivalently
5 throughout the state under the Washington cap and invest program.
6 This act achieves more equal treatment of all communities with
7 municipal solid waste management systems under state policy.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 70A.65
9 RCW to read as follows:

10 (1) Beginning January 1, 2027, until December 31, 2030, the
11 department must allocate no cost allowances to a waste to energy
12 facility specified in RCW 70A.65.080(2) that was constructed prior to
13 1992, if the facility is operated in compliance with federal laws and
14 regulations and meets state air quality standards. Except as provided
15 in subsection (2) of this section, no cost allowances are allocated
16 for the benefit of solid waste ratepayers. No cost allowances must be
17 allocated in an amount equal to the following percentages of the
18 facility's baseline greenhouse gas emissions, defined as the
19 facility's average annual emissions, during the calendar years 2021
20 through 2025:

21 (a) For emissions year 2027, 93 percent of baseline greenhouse
22 gas emissions; and

23 (b) Beginning with emissions year 2028 and for each emissions
24 year through December 31, 2030, the amount of no cost allowances
25 awarded to the facility must decline by an additional seven percent
26 for each emissions year, relative to the amount awarded under (a) of
27 this subsection.

28 (2) 50 percent of the allowances allocated under subsection (1)
29 of this section must be consigned to auction. Proceeds from the
30 consigned allowances may only be used with the approval of the

1 department by the owner or operator of the waste to energy facility
2 for investments in projects or programs that reduce greenhouse gas
3 emissions associated with the waste to energy facility.

4 (3) For purposes of this section, "emissions year" means the
5 calendar year in which greenhouse gas emissions occur.

6 **Sec. 3.** RCW 70A.65.120 and 2021 c 316 s 14 are each amended to
7 read as follows:

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

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

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

29 (c) By October 1, 2026, the department shall adopt an allocation
30 schedule by rule, in consultation with the department of commerce and
31 the utilities and transportation commission, for the provision of
32 allowances for the second compliance period at no cost to consumer-
33 owned and investor-owned electric utilities. This allocation must be
34 consistent with a forecast, that is approved by the appropriate
35 governing board or the utilities and transportation commission, of
36 each utility's supply and demand, and the cost burden resulting from
37 the inclusion of covered entities in the second compliance period.
38 The allowances included in this schedule must reflect the increased

1 scope of coverage in the electricity sector relative to the program
2 budget of allowances established in 2022.

3 (d) By October 1, 2028, the department shall adopt an allocation
4 schedule by rule, in consultation with the department of commerce and
5 the utilities and transportation commission, for the provision of
6 allowances at no cost to consumer-owned and investor-owned electric
7 utilities for the compliance periods contained within calendar years
8 2031 through 2045. This allocation must be consistent with a
9 forecast, that is approved by the appropriate governing board or the
10 utilities and transportation commission, of each utility's supply and
11 demand, and the cost burden resulting from the inclusion of the
12 covered entities in the compliance periods. The rule developed under
13 this subsection (2)(d) may prescribe an amount of allowances
14 allocated at no cost that must be consigned to auction by consumer-
15 owned and investor-owned electric utilities. However, utilities may
16 use allowances for compliance equal to their covered emissions in any
17 calendar year they were not subject to potential penalty under RCW
18 19.405.090. Under no circumstances may utilities receive any free
19 allowances after 2045.

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

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

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

38 (5) If an entity is identified by the department as an emissions-
39 intensive, trade-exposed industry under RCW 70A.65.110, unless
40 allowances have been otherwise allocated for electricity-related

1 emissions to the entity under RCW 70A.65.110 or to a consumer-owned
2 utility under this section, the department shall allocate allowances
3 at no cost to the electric utility or power marketing administration
4 that is providing electricity to the entity in an amount equal to the
5 forecasted emissions for electricity consumption for the entity for
6 the compliance period.

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

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

14 (8) Nothing in this section affects the requirements of chapter
15 19.405 RCW.

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

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

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

25 (10) The department may not allocate allowances to an electric
26 utility under this section to mitigate the cost burden associated
27 with electricity produced by a waste to energy facility that receives
28 no cost allowances under section 2 of this act.

29 NEW SECTION. **Sec. 4.** A new section is added to chapter 70A.65
30 RCW to read as follows:

31 (1) By December 1, 2030, the owner or operator of a waste to
32 energy facility constructed prior to 1992 must provide a two-part
33 plan to the department and the department of commerce. The plan must
34 include a proposed greenhouse gas emissions reduction plan and a
35 waste reduction and material recovery plan. The greenhouse gas
36 emissions reduction portion of the plan must outline how the facility
37 will achieve emissions reductions consistent with the state emissions
38 limits for 2040 and 2050 under chapter 70A.45 RCW. The waste
39 reduction and material recovery portion of the plan must be

1 consistent with the state's waste management hierarchy established in
2 RCW 70A.205.005, take into consideration the organic material
3 management policies in RCW 70A.205.540 and 70A.205.545 and the
4 expected impacts of chapter 70A.208 RCW, and consider the local solid
5 waste plan under chapter 70A.205 RCW. The department may provide
6 technical assistance and guidance for development and implementation
7 of the plan required by this section.

8 (2) In the plan, emissions reductions may be proposed to be
9 achieved by any combination of carbon capture, sequestration or other
10 captured carbon use adopted by rule or policy by the department,
11 waste reduction activities, recycling and reuse activities, energy
12 conservation, industrial symbiosis, or other greenhouse gas emissions
13 reduction strategies identified by the owners or operators of the
14 waste to energy facility.

15 (3) In developing the plan, the owner or operator of the waste to
16 energy facility must consult with local municipally created
17 stakeholder and community advisory bodies formed with the purpose of
18 advising on climate or sustainability decisions.

19 (4) Within 180 days of receipt, the department, in consultation
20 with the department of commerce, must complete its review of the
21 plan. The owner or operator of the waste to energy facility must
22 address the department's comments and finalize the plan within 120
23 days of receipt of the department's comments. The owner or operator
24 of a waste to energy facility must take reasonable
25 steps towards implementation of the plan and operate the facility and
26 take other actions, as appropriate, consistent with the goals of the
27 plan."

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28 On page 1, line 2 of the title, after "act;" strike the remainder
29 of the title and insert "amending RCW 70A.65.120; adding new sections
30 to chapter 70A.65 RCW; and creating a new section."

EFFECT: (1) Specifies that the Department of Ecology (Ecology)
must allocate no cost allowances to a waste to energy facility (WTE
Facility) until December 31, 2030, instead of "until the end of the
second compliance period."

(2) Clarifies that a WTE Facility's baseline greenhouse gas emissions are defined as the facility's average annual emissions during the calendar years 2021-2025.

(3) Provides that Ecology may not allocate no cost allowances to an electric utility to mitigate the cost burden of electricity, rather than for greenhouse gas emissions, associated with electricity produced by a WTE Facility that receives no cost allowances.

(4) Directs the waste reduction and material recovery component of the two-part plan submitted to Ecology and the Department of Commerce (facility plan) to consider the local solid waste management plan, rather than align with the county's solid waste management plan.

(5) Extends the amount of time Ecology has to review a facility plan, from 90 to 180 days, and the amount of time a WTE Facility has to address Ecology's comments and finalize the facility plan, from 90 days to 120 days.

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