

E2SHB 2416 - S COMM AMD
By Committee on Ways & Means

ADOPTED AND ENGROSSED 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 years 2027 and 2028, 100 percent of baseline
22 greenhouse gas emissions;

23 (b) For emissions year 2029, 93 percent of baseline greenhouse
24 gas emissions; and

25 (c) For emissions year 2030, 86 percent of baseline greenhouse
26 gas emissions.

27 (2)(a) 40 percent of the allowances allocated under subsection
28 (1) of this section must be consigned to auction. Proceeds from the
29 consigned allowances may only be used with the approval of the
30 department by the owner or operator of the waste to energy facility

1 for investments in projects or programs that reduce greenhouse gas
2 emissions associated with the waste to energy facility.

3 (b) Before expenditure of proceeds from consigned allowances
4 under (a) of this subsection, the owner or operator of the waste to
5 energy facility must submit to the department a written proposal of
6 how the investments in projects or programs will reduce greenhouse
7 gas emissions associated with the waste to energy facility. Before
8 developing a proposal, the owner or operator of the waste to energy
9 facility may consult with the department and the department of
10 commerce to understand the information that will be needed to
11 adequately review the proposal. Within 90 days of receipt, the
12 department must complete its review of the proposal. The owner or
13 operator of the waste to energy facility must address the
14 department's comments and gain final approval of the revised proposal
15 from the department. The owner or operator of the waste to energy
16 facility must take reasonable steps toward implementation of the
17 proposal consistent with the proposal timeline and requirements. A
18 proposal may take the form of a project or program in the greenhouse
19 gas reduction plan required in section 5 of this act, once approved
20 by the department.

21 (3) If the actual emissions of the waste to energy facility
22 exceed the facility's no cost allowances allocated for emissions
23 years 2027 through 2030, an owner or operator of the waste to energy
24 facility must acquire additional compliance instruments such that the
25 total compliance instruments transferred to its compliance account
26 consistent with this chapter equal emissions during emissions years
27 2027 through 2030. The waste to energy facility must be allowed to
28 bank unused allowances. The department must limit the use of offset
29 credits for compliance by the waste to energy facility such that the
30 quantity of no cost allowances plus the provision of offset credits
31 does not exceed 100 percent of the facility's total compliance
32 obligation for emissions years 2027 through 2030.

33 (4) The department must withhold or withdraw the relevant share
34 of allowances allocated to the waste to energy facility under this
35 section if the facility ceases production in the state and becomes a
36 closed facility. If an entity curtails all production and becomes a
37 curtailed facility, the allowances are retained but cannot be traded,
38 sold, or transferred and are still subject to the emissions reduction
39 requirements specified in this chapter. If the curtailed facility
40 becomes a closed facility, then all unused allowances must be

1 transferred to the emissions containment reserve established in RCW
2 70A.65.140. A curtailed facility is not eligible to receive no cost
3 allowances during a period of curtailment. Any allowances withheld or
4 withdrawn under this subsection must be transferred to the emissions
5 containment reserve established in RCW 70A.65.140.

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

8 **Sec. 3.** RCW 70A.65.140 and 2022 c 181 s 11 are each amended to
9 read as follows:

10 (1) To help ensure that the price of allowances remains
11 sufficient to incentivize reductions in greenhouse gas emissions, the
12 department must establish an emissions containment reserve and set an
13 emissions containment reserve trigger price by rule. The price must
14 be set at a reasonable amount above the auction floor price and equal
15 to the level established in jurisdictions with which the department
16 has entered into a linkage agreement. If a jurisdiction with which
17 the department might enter into a linkage agreement has no emissions
18 containment trigger price, the department may suspend the trigger
19 price under this subsection. The purpose of withholding allowances in
20 the emissions containment reserve is to secure additional emissions
21 reductions.

22 (2) In the event that the emissions containment reserve trigger
23 price is met during an auction, the department must automatically
24 withhold allowances as needed. The department must convert and
25 transfer any allowances that have been withheld from auction into the
26 emissions containment reserve account.

27 (3) Emissions containment reserve allowances may only be withheld
28 from an auction if the demand for allowances would result in an
29 auction clearing price that is less than the emissions containment
30 reserve trigger price prior to the withholding from the auction of
31 any emissions containment reserve allowances.

32 (4) The department shall transfer allowances to the emissions
33 containment reserve in the following situations:

34 (a) No less than two percent of the total number of allowances
35 available from the allowance budgets for calendar years 2023 through
36 2026;

37 (b) When allowances are unsold in auctions under RCW 70A.65.100;

38 (c) When facilities curtail or close consistent with RCW
39 70A.65.110(6) or section 2 of this act; or

1 (d) When facilities fall below the emissions threshold. The
2 amount of allowances withdrawn from the program budget must be
3 proportionate to the amount of emissions such a facility was
4 previously using.

5 (5) (a) Allowances must be distributed from the emissions
6 containment reserve by auction when new covered and opt-in entities
7 enter the program.

8 (b) Allowances equal to the greenhouse gas emissions resulting
9 from a new or expanded emissions-intensive, trade-exposed facility
10 with emissions in excess of 25,000 metric tons per year during the
11 first applicable compliance period will be provided to the facility
12 from the reserve created in this section and must be retired by the
13 facility. In subsequent compliance periods, the facility will be
14 subject to the regulatory cap and related requirements under this
15 chapter.

16 **Sec. 4.** RCW 70A.65.120 and 2021 c 316 s 14 are each amended to
17 read as follows:

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

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

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

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

13 (d) By October 1, (~~2028~~) 2030, the department shall adopt an
14 allocation schedule by rule, in consultation with the department of
15 commerce and the utilities and transportation commission, for the
16 provision of allowances at no cost to consumer-owned and investor-
17 owned electric utilities for the compliance periods contained within
18 calendar years 2031 through 2045. This allocation must be consistent
19 with a forecast, that is approved by the appropriate governing board
20 or the utilities and transportation commission, of each utility's
21 supply and demand, and the cost burden resulting from the inclusion
22 of the covered entities in the compliance periods. The rule developed
23 under this subsection (2)(d) may prescribe an amount of allowances
24 allocated at no cost that must be consigned to auction by consumer-
25 owned and investor-owned electric utilities. However, utilities may
26 use allowances for compliance equal to their covered emissions in any
27 calendar year they were not subject to potential penalty under RCW
28 19.405.090. Under no circumstances may utilities receive any free
29 allowances after 2045.

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

37 (b) By October 1, 2026, the department, in consultation with the
38 department of commerce and the utilities and transportation
39 commission, must adopt rules governing the amount of allowances
40 allocated at no cost under subsection (2)(c) of this section that

1 must be consigned to auction. For calendar year 2030, electric
2 utilities may use allowances for compliance equal to their covered
3 emissions if not subject to potential penalty under RCW 19.405.090.

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

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

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

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

24 (8) Nothing in this section affects the requirements of chapter
25 19.405 RCW.

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

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

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

35 (10) The department may not allocate allowances to an electric
36 utility under this section for greenhouse gas emissions associated
37 with electricity produced by a waste to energy facility for which the
38 facility has a compliance obligation under this chapter.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 70A.65

2 RCW to read as follows:

3 (1) By December 1, 2030, the owner or operator of a waste to
4 energy facility constructed prior to 1992 must provide a two-part
5 plan to the department and the department of commerce. The plan must
6 include a proposed greenhouse gas emissions reduction plan and a
7 waste reduction and material recovery plan. The greenhouse gas
8 emissions reduction portion of the plan must outline how the facility
9 will achieve emissions reductions consistent with the state emissions
10 limits for 2040 and 2050 under chapter 70A.45 RCW. The waste
11 reduction and material recovery portion of the plan must be
12 consistent with the state's waste management hierarchy established in
13 RCW 70A.205.005, take into consideration the organic material
14 management policies in RCW 70A.205.540 and 70A.205.545 and the
15 expected impacts of chapter 70A.208 RCW, and consider the local solid
16 waste plan under chapter 70A.205 RCW. The department may provide
17 technical assistance and guidance for development and implementation
18 of the plan required by this section.

19 (2) In the plan, an owner or operator of the waste to energy
20 facility may:

21 (a) Propose that emissions reductions be achieved by any
22 combination of carbon capture, sequestration or other captured carbon
23 use adopted by rule or policy by the department, waste reduction
24 activities, recycling and reuse activities, energy conservation,
25 industrial symbiosis, or other greenhouse gas emissions reduction
26 strategies identified by the owners or operators of the waste to
27 energy facility; and

28 (b) Include the projected costs of emissions reductions at the
29 facility, and may include information on funding options such as
30 revenues from consigned no-cost allowances and funding from public
31 and private sources.

32 (3) In developing the plan, the owner or operator of the waste to
33 energy facility must consider social, environmental, and health
34 factors in overburdened communities and vulnerable populations, and
35 consult with local municipally created stakeholder and community
36 advisory bodies formed with the purpose of advising on climate or
37 sustainability decisions.

38 (4) Within 180 days of receipt, the department, in consultation
39 with the department of commerce, must complete its review of the
40 plan. The owner or operator of the waste to energy facility, in

1 consultation with the advisory groups specified in subsection (3) of
2 this section, must address the department's comments and finalize the
3 plan within 120 days of receipt of the department's comments. The
4 owner or operator of the waste to energy facility must take
5 reasonable steps towards implementation of the plan and operate the
6 facility and take other actions, as appropriate, consistent with the
7 goals of the plan."

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8 On page 1, line 2 of the title, after "act;" strike the remainder
9 of the title and insert "amending RCW 70A.65.140 and 70A.65.120;
10 adding new sections to chapter 70A.65 RCW; and creating a new
11 section."

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