

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

**ADOPTED AS AMENDED 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 4 of this act, once approved  
20 by the department.

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

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

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

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

37 (b) By October 1, 2022, the department shall adopt an allocation  
38 schedule by rule, in consultation with the department of commerce and  
39 the utilities and transportation commission, for the first compliance

1 period for the provision of allowances at no cost to consumer-owned  
2 and investor-owned electric utilities. This allocation must be  
3 consistent with a forecast, that is approved by the appropriate  
4 governing board or the utilities and transportation commission, of  
5 each utility's supply and demand, and the cost burden resulting from  
6 the inclusion of the covered entities in the first compliance period.

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

19 (d) By October 1, 2028, the department shall adopt an allocation  
20 schedule by rule, in consultation with the department of commerce and  
21 the utilities and transportation commission, for the provision of  
22 allowances at no cost to consumer-owned and investor-owned electric  
23 utilities for the compliance periods contained within calendar years  
24 2031 through 2045. This allocation must be consistent with a  
25 forecast, that is approved by the appropriate governing board or the  
26 utilities and transportation commission, of each utility's supply and  
27 demand, and the cost burden resulting from the inclusion of the  
28 covered entities in the compliance periods. The rule developed under  
29 this subsection (2)(d) may prescribe an amount of allowances  
30 allocated at no cost that must be consigned to auction by consumer-  
31 owned and investor-owned electric utilities. However, utilities may  
32 use allowances for compliance equal to their covered emissions in any  
33 calendar year they were not subject to potential penalty under RCW  
34 19.405.090. Under no circumstances may utilities receive any free  
35 allowances after 2045.

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

1 provisions for directing revenues generated under this subsection to  
2 the applicable utilities.

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

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

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

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

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

30 (8) Nothing in this section affects the requirements of chapter  
31 19.405 RCW.

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

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

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

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

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

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

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

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

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

36       (3) In developing the plan, the owner or operator of the waste to  
37 energy facility must consider social, environmental, and health  
38 factors in overburdened communities and vulnerable populations, and  
39 consult with local municipally created stakeholder and community

1 advisory bodies formed with the purpose of advising on climate or  
2 sustainability decisions.

3 (4) Within 180 days of receipt, the department, in consultation  
4 with the department of commerce, must complete its review of the  
5 plan. The owner or operator of the waste to energy facility, in  
6 consultation with the advisory groups specified in subsection (3) of  
7 this section, must address the department's comments and finalize the  
8 plan within 120 days of receipt of the department's comments. The  
9 owner or operator of the waste to energy facility must take  
10 reasonable steps towards implementation of the plan and operate the  
11 facility and take other actions, as appropriate, consistent with the  
12 goals of the plan."

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13 On page 1, line 2 of the title, after "act;" strike the remainder  
14 of the title and insert "amending RCW 70A.65.120; adding new sections  
15 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 (baseline) are defined as the facility's average annual  
emissions during the calendar years 2021-2025.

(3) Modifies the percentage of no-cost allowances provided to a  
WTE Facility relative to its baseline as follows: (a) For emissions  
year 2027, from 93 percent to 100 percent; (b) for emissions year  
2028, from 86 percent to 100 percent; (c) for emissions year 2029,  
from 79 percent to 93 percent; and (d) for emissions year 2030, from  
72 percent to 86 percent.

(4) Requires 40 percent, rather than 50 percent, of the allocated  
no-cost allowances to be consigned to auction, the proceeds of which  
must be used by the WTE Facility to reduce its greenhouse gas  
emissions.

(5) Conditions the expenditure of proceeds from the consigned no-  
cost allowances on the WTE Facility developing and submitting a  
written proposal to Ecology and the Department of Commerce.

(6) Provides that Ecology may not allocate no-cost allowances to  
an electric utility for greenhouse gas emissions associated with  
electricity produced by a WTE Facility for which the facility has a  
compliance obligation in the Cap-and-Invest Program.

(7) 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.

(8) Allows the WTE Facility, as part of the facility plan, to include information on funding options, and requires the plan to consider social, environmental, and health factors in overburdened communities and vulnerable populations.

(9) Extends the amount of time Ecology has to review a facility plan, from 90 days 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.

(10) Requires the WTE Facility to consult with certain stakeholder and community advisory groups when addressing Ecology's comments and finalizing the facility plan.

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