
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2416

State of Washington

69th Legislature

2026 Regular Session

By House Appropriations (originally sponsored by Representatives Hill, Ormsby, Parshley, Schmidt, Scott, Peterson, Obras, Shavers, Engell, and Graham)

READ FIRST TIME 02/09/26.

1 AN ACT Relating to fair treatment of waste to energy facilities
2 under the climate commitment act; amending RCW 70A.65.120; adding new
3 sections to chapter 70A.65 RCW; and creating a new section.

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

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

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

12 (1) Beginning January 1, 2027, until the end of the second
13 compliance period, the department must allocate no cost allowances to
14 a waste to energy facility specified in RCW 70A.65.080(2) that was
15 constructed prior to 1992, if the facility is operated in compliance
16 with federal laws and regulations and meets state air quality
17 standards. Except as provided in subsection (2) of this section, no
18 cost allowances are allocated for the benefit of solid waste
19 ratepayers. No cost allowances must be allocated in an amount equal

1 to the following percentages of the facility's baseline greenhouse
2 gas emissions during the calendar years 2021 through 2025:

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

5 (b) Beginning with emissions year 2028 and for each emissions
6 year through the end of the second compliance period, the amount of
7 no cost allowances awarded to the facility must decline by an
8 additional seven percent for each emissions year, relative to the
9 amount awarded under (a) of this subsection.

10 (2) 50 percent of the allowances allocated under subsection (1)
11 of this section must be consigned to auction. Proceeds from the
12 consigned allowances may only be used with the approval of the
13 department by the owner or operator of the waste to energy facility
14 for investments in projects or programs that reduce greenhouse gas
15 emissions associated with the waste to energy facility.

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

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

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

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

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

1 each utility's supply and demand, and the cost burden resulting from
2 the inclusion of the covered entities in the first compliance period.

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

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

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

39 (b) By October 1, 2026, the department, in consultation with the
40 department of commerce and the utilities and transportation

1 commission, must adopt rules governing the amount of allowances
2 allocated at no cost under subsection (2)(c) of this section that
3 must be consigned to auction. For calendar year 2030, electric
4 utilities may use allowances for compliance equal to their covered
5 emissions if not subject to potential penalty under RCW 19.405.090.

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

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

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

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

26 (8) Nothing in this section affects the requirements of chapter
27 19.405 RCW.

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

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

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

37 (10) The department may not allocate allowances to an electric
38 utility under this section for greenhouse gas emissions associated
39 with electricity produced by a waste to energy facility that receives
40 no cost allowances under section 2 of this act.

1 NEW SECTION. **Sec. 4.** 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 align with the county's
16 local solid waste plan under chapter 70A.205 RCW.

17 (2) In the plan, emissions reductions may be proposed to be
18 achieved by any combination of carbon capture, sequestration or other
19 captured carbon use adopted by rule or policy by the department,
20 waste reduction activities, recycling and reuse activities, energy
21 conservation, industrial symbiosis, or other greenhouse gas emissions
22 reduction strategies identified by the owners or operators of the
23 waste to energy facility.

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

28 (4) Within 90 days of receipt, the department, in consultation
29 with the department of commerce, must complete its review of the
30 plan. The owner or operator of the waste to energy facility must
31 address the department's comments and finalize the plan within 90
32 days of receipt of the department's comments. The owner or operator
33 of a waste to energy facility must take reasonable
34 steps towards implementation of the plan and operate the facility and
35 take other actions, as appropriate, consistent with the goals of the
36 plan.

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