CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2416

69th Legislature
2026 Regular Session

Passed by the House March 11, 2026
Yeas 76 Nays 20

Speaker of the House of Representatives

Passed by the Senate March 4, 2026
Yeas 39 Nays 10

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2416** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

Secretary of State
State of Washington

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2416

AS AMENDED BY THE SENATE

Passed Legislature - 2026 Regular Session

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.

AN ACT Relating to fair treatment of waste to energy facilities under the climate commitment act; amending RCW 70A.65.140 and 70A.65.120; adding new sections to chapter 70A.65 RCW; and creating a new section.

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

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

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

(1) Beginning January 1, 2027, until December 31, 2030, the department must allocate no cost allowances to a waste to energy facility specified in RCW 70A.65.080(2) that was constructed prior to 1992, if the facility is operated in compliance with federal laws and regulations and meets state air quality standards. Except as provided in subsection (2) of this section, no cost allowances are allocated for the benefit of solid waste ratepayers. No cost allowances must be allocated in an amount equal to the following percentages of the

facility's baseline greenhouse gas emissions, defined as the facility's average annual emissions, during the calendar years 2021 through 2025:

(a) For emissions years 2027 and 2028, 100 percent of baseline greenhouse gas emissions;

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

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

(2)(a) 40 percent of the allowances allocated under subsection (1) of this section must be consigned to auction. Proceeds from the consigned allowances may only be used with the approval of the department by the owner or operator of the waste to energy facility for investments in projects or programs that reduce greenhouse gas emissions associated with the waste to energy facility.

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

(3) If the actual emissions of the waste to energy facility exceed the facility's no cost allowances allocated for emissions years 2027 through 2030, an owner or operator of the waste to energy facility must acquire additional compliance instruments such that the total compliance instruments transferred to its compliance account consistent with this chapter equal emissions during emissions years 2027 through 2030. The waste to energy facility must be allowed to

bank unused allowances. The department must limit the use of offset credits for compliance by the waste to energy facility such that the quantity of no cost allowances plus the provision of offset credits does not exceed 100 percent of the facility's total compliance obligation for emissions years 2027 through 2030.

(4) The department must withhold or withdraw the relevant share of allowances allocated to the waste to energy facility under this section if the facility ceases production in the state and becomes a closed facility. If an entity curtails all production and becomes a curtailed facility, the allowances are retained but cannot be traded, sold, or transferred and are still subject to the emissions reduction requirements specified in this chapter. If the curtailed facility becomes a closed facility, then all unused allowances must be transferred to the emissions containment reserve established in RCW 70A.65.140. A curtailed facility is not eligible to receive no cost allowances during a period of curtailment. Any allowances withheld or withdrawn under this subsection must be transferred to the emissions containment reserve established in RCW 70A.65.140.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2)(a) By October 1, 2022, the department shall adopt rules, in consultation with the department of commerce and the utilities and transportation commission, establishing the methods and procedures

for allocating allowances for consumer-owned and investor-owned electric utilities. The rules must take into account the cost burden of the program on electricity customers.

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

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

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

19.405.090. Under no circumstances may utilities receive any free allowances after 2045.

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

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

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

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

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

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

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

(9) A consumer-owned utility that is party to a contract that meets the following conditions must be issued allowances under this

section for emissions associated with imported electricity, in order to prevent impairment of the value of the contract to either party:

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

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

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

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

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

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

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

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

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

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

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