

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2416

Chapter 216, Laws of 2026

69th Legislature
2026 Regular Session

WASTE TO ENERGY FACILITIES—CLIMATE COMMITMENT ACT

EFFECTIVE DATE: June 11, 2026

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

LAURIE JINKINS

**Speaker of the House of
Representatives**

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

DENNY HECK

President of the Senate

Approved March 25, 2026 11:16 AM

BOB FERGUSON

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.

BERNARD DEAN

Chief Clerk

FILED

March 25, 2026

**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.

1 AN ACT Relating to fair treatment of waste to energy facilities
2 under the climate commitment act; amending RCW 70A.65.140 and
3 70A.65.120; adding new sections to chapter 70A.65 RCW; and creating a
4 new section.

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

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

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

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

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

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

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

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

10 (2)(a) 40 percent of the allowances allocated under subsection
11 (1) 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 (b) Before expenditure of proceeds from consigned allowances
17 under (a) of this subsection, the owner or operator of the waste to
18 energy facility must submit to the department a written proposal of
19 how the investments in projects or programs will reduce greenhouse
20 gas emissions associated with the waste to energy facility. Before
21 developing a proposal, the owner or operator of the waste to energy
22 facility may consult with the department and the department of
23 commerce to understand the information that will be needed to
24 adequately review the proposal. Within 90 days of receipt, the
25 department must complete its review of the proposal. The owner or
26 operator of the waste to energy facility must address the
27 department's comments and gain final approval of the revised proposal
28 from the department. The owner or operator of the waste to energy
29 facility must take reasonable steps toward implementation of the
30 proposal consistent with the proposal timeline and requirements. A
31 proposal may take the form of a project or program in the greenhouse
32 gas reduction plan required in section 5 of this act, once approved
33 by the department.

34 (3) If the actual emissions of the waste to energy facility
35 exceed the facility's no cost allowances allocated for emissions
36 years 2027 through 2030, an owner or operator of the waste to energy
37 facility must acquire additional compliance instruments such that the
38 total compliance instruments transferred to its compliance account
39 consistent with this chapter equal emissions during emissions years
40 2027 through 2030. The waste to energy facility must be allowed to

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

6 (4) The department must withhold or withdraw the relevant share
7 of allowances allocated to the waste to energy facility under this
8 section if the facility ceases production in the state and becomes a
9 closed facility. If an entity curtails all production and becomes a
10 curtailed facility, the allowances are retained but cannot be traded,
11 sold, or transferred and are still subject to the emissions reduction
12 requirements specified in this chapter. If the curtailed facility
13 becomes a closed facility, then all unused allowances must be
14 transferred to the emissions containment reserve established in RCW
15 70A.65.140. A curtailed facility is not eligible to receive no cost
16 allowances during a period of curtailment. Any allowances withheld or
17 withdrawn under this subsection must be transferred to the emissions
18 containment reserve established in RCW 70A.65.140.

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

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

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

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

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

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

8 (a) No less than two percent of the total number of allowances
9 available from the allowance budgets for calendar years 2023 through
10 2026;

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

12 (c) When facilities curtail or close consistent with RCW
13 70A.65.110(6) or section 2 of this act; or

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

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

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

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

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

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

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

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

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

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

1 19.405.090. Under no circumstances may utilities receive any free
2 allowances after 2045.

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

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

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

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

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

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

37 (8) Nothing in this section affects the requirements of chapter
38 19.405 RCW.

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

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

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

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

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

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

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

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

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

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

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

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

Passed by the House March 11, 2026.

Passed by the Senate March 4, 2026.

Approved by the Governor March 25, 2026.

Filed in Office of Secretary of State March 25, 2026.

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