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HOUSE BILL 1965

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State of Washington

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2024 Regular Session

By Representatives Chapman and McEntire

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1 AN ACT Relating to the allocation of allowances under chapter  
2 70A.65 RCW, the Washington climate commitment act; and amending RCW  
3 70A.65.120.

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

5 **Sec. 1.** RCW 70A.65.120 and 2021 c 316 s 14 are each amended to  
6 read as follows:

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

14 (2)(a) By October 1, 2022, the department shall adopt rules, in  
15 consultation with the department of commerce and the utilities and  
16 transportation commission, establishing the methods and procedures  
17 for allocating allowances for consumer-owned and investor-owned  
18 electric utilities. The rules must take into account the cost burden  
19 of the program on electricity customers.

20 (b) By October 1, 2022, the department shall adopt an allocation  
21 schedule by rule, in consultation with the department of commerce and

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

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

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

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

1 department under subsection (2) of this section must include  
2 provisions for directing revenues generated under this subsection to  
3 the applicable utilities.

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

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

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

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

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

31 (8) In order to mitigate the cost burden of the program on  
32 Washington electricity consumers, covered entities that own or  
33 operate electric generating facilities classified under North  
34 American industry classification system code 221112 and operating in  
35 Washington as of July 25, 2021, that are not owned or operated by  
36 electric utilities must receive an allocation of no cost allowances  
37 for a portion of the covered emissions of those facilities, and for  
38 the administrative costs of the program for those facilities, as set  
39 forth in this subsection.

1 (a) The number of no cost allowances to be distributed to a  
2 facility identified under this subsection for the 2023 compliance  
3 year must be equal to the facility's covered emissions during 2023  
4 that are attributable to the facility's generation of electric power  
5 with a final point of delivery in Washington. By August 10, 2024, the  
6 covered entity owning or operating the facility must submit to the  
7 department a report quantifying the facility's 2023 covered emissions  
8 that are attributable to the facility's generation of electric power  
9 with a final point of delivery in Washington. The department shall  
10 review and approve the facility's report by September 15, 2024, and  
11 shall transfer the no cost allowances authorized under this  
12 subsection to the compliance account of the covered entity by October  
13 24, 2024.

14 (b) For program compliance years from 2024 through 2044:

15 (i) The annual allocation of no cost allowances to be distributed  
16 to a facility identified under this subsection must be equal to the  
17 facility's covered emissions, subject to certification required under  
18 (b)(ii) of this subsection, for each compliance year that are  
19 attributable to the facility's generation of electric power with a  
20 final point of delivery in Washington. For each compliance year, the  
21 department shall transfer these no cost allowances to the compliance  
22 account of the facility by October 24th of the succeeding calendar  
23 year.

24 (ii) By August 10, 2025, and by August 10th of each year  
25 thereafter, facilities identified under this subsection must submit  
26 to the department a certified report quantifying the facility's  
27 covered emissions from the preceding year that are attributable to  
28 the facility's generation of electric power with a final point of  
29 delivery in Washington. The department shall, by October 24, 2025,  
30 adopt rules setting forth the contents to be included in the  
31 certified report required under this subsection (8)(b)(ii) and the  
32 department is authorized to audit the reports and the assessments  
33 contained therein for accuracy pursuant to rules to be adopted by the  
34 department. The certified reports, submitted to the department by  
35 August 10th of each year, are deemed reviewed and approved by the  
36 department as of September 15th of the year of submission unless the  
37 department has, by that date, commenced an audit of the facility's  
38 report for that year and notified the facility in writing of such an  
39 audit.

1 (c) For all compliance years of the program through 2044, a  
2 facility identified under this subsection must receive an allocation  
3 of no cost allowances to account for the administrative costs of the  
4 program. The no cost allowances for each compliance year must be  
5 transferred to the compliance account of the facility by October 24th  
6 of the succeeding calendar year.

7 (d) To the extent that a facility identified under this  
8 subsection incurs a compliance obligation during any compliance  
9 period exceeding the number of no cost allowances allocated pursuant  
10 to this subsection, that facility must acquire compliance instruments  
11 in quantities adequate to meet its compliance obligation under RCW  
12 70A.65.310.

13 (e) For covered emissions produced on or after January 1, 2045, a  
14 facility identified under this subsection receives zero no cost  
15 allowances.

16 (9) Nothing in this section affects the requirements of chapter  
17 19.405 RCW.

18 ~~((9))~~ (10) A consumer-owned utility that is party to a contract  
19 that meets the following conditions must be issued allowances under  
20 this section for emissions associated with imported electricity, in  
21 order to prevent impairment of the value of the contract to either  
22 party:

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

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

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