
HOUSE BILL 2249

State of Washington

68th Legislature

2024 Regular Session

By Representative Dye

1 AN ACT Relating to ensuring transparency regarding the impacts of
2 allowing general market participants, including financial
3 speculators, to participate in climate commitment act markets;
4 amending RCW 70A.65.090 and 70A.65.220; adding a new section to
5 chapter 70A.65 RCW; and creating a new section.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that 40 percent
8 of those registered and eligible to bid on emission allowances at
9 Washington's regular quarterly carbon allowance auctions are bidding
10 for other reasons, including financial speculation, rather than to
11 comply with the states' emissions cap. Those who participate in the
12 auction who have no compliance obligation are called "general market
13 participants."

14 (2) The legislature finds that in September 2023, the department
15 of ecology published an emergency rule to exclude general market
16 participants from the allowance price containment reserve auctions
17 (APCR auctions). APCR auctions are designed to lower the compliance
18 costs of the climate commitment act for Washington's regulated
19 entities. In justifying the emergency rule, the department of ecology
20 asserted that excluding general market participants from the APCR
21 auctions would prevent those allowances from being sold or traded on

1 the secondary market and thereby ensure that the allowances sold
2 would be used to meet compliance obligations and not for speculative
3 purposes. The department of ecology stated that the emergency rule
4 making was necessary to ensure market integrity and achieve
5 greenhouse gas emissions reductions in an economically efficient way.
6 Further, the department of ecology said that without the emergency
7 rule excluding general market participants from APCR auctions,
8 allowances could be misallocated at distorted prices that could
9 affect not only program participants but the public as well.

10 (3) Therefore, the legislature intends to gather data and study
11 the impact of including general market participants in the regular
12 quarterly auctions. The legislature seeks to understand how the
13 legislature might allow for regulated entities to achieve our state
14 carbon emission reductions at a lower cost. Such information and
15 analysis will help the legislature understand the degree to which
16 general market participant trading may be driving up costs of
17 compliance for covered Washington businesses and thereby increasing
18 the prices of consumer goods and services provided by those
19 businesses more than necessary for Washington consumers.

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

22 (1) By December 1, 2025, the Washington state institute for
23 public policy must publish and submit a report to the appropriate
24 committees of the legislature evaluating the program performance
25 outcomes associated with the participation of general market
26 participants in the program established under this chapter. The
27 evaluation must attempt to quantify the cost impacts of allowance
28 prices under this chapter that are attributable to the policy
29 decision embedded in this chapter to allow the acquisition and sale
30 by general market participants of compliance instruments.

31 (2) The department must share compliance instrument market
32 information with the Washington state institute for public policy as
33 needed to carry out the evaluation required under subsection (1) of
34 this section, including confidential information otherwise exempt
35 from disclosure under RCW 70A.65.100(9). The department may require
36 the Washington state institute for public policy to treat as
37 confidential and exempt from public disclosure information that is
38 shared with the institute for purposes of carrying out the evaluation
39 in subsection (1) of this section.

1 (3) The Washington state institute for public policy may contract
2 with neutral, independent third parties as necessary to assist in
3 carrying out the requirements of this section. Any entity that is
4 contracted under this subsection may not have received a contract
5 related to greenhouse gas emission market programs from a general
6 market participant or had any similar affiliation with a general
7 market participant, during the preceding five years.

8 (4) As long as general market participants continue to be
9 authorized to participate in the program established under this
10 chapter, the Washington state institute for public policy must update
11 the evaluation under this section and submit updated reports to the
12 appropriate committees of the legislature by December 1st of each
13 odd-numbered year.

14 **Sec. 3.** RCW 70A.65.090 and 2021 c 316 s 11 are each amended to
15 read as follows:

16 (1) All covered entities must register to participate in the
17 program, following procedures adopted by the department by rule.

18 (2) Entities registering to participate in the program must
19 describe any direct or indirect affiliation with other registered
20 entities.

21 (3) A person responsible for greenhouse gas emissions that is not
22 a covered entity may voluntarily participate in the program by
23 registering as an opt-in entity. An opt-in entity must satisfy the
24 same registration requirements as covered entities. Once registered,
25 an opt-in entity is allowed to participate as a covered entity in
26 auctions and must assume the same compliance obligation to transfer
27 compliance instruments equal to their emissions at the appointed
28 transfer dates. An opt-in entity may opt out of the program at the
29 end of any compliance period by providing written notice to the
30 department at least six months prior to the end of the compliance
31 period. The opt-in entity continues to have a compliance obligation
32 through the current compliance period. An opt-in entity is not
33 eligible to receive allowances directly distributed under RCW
34 70A.65.110, 70A.65.120, or 70A.65.130.

35 (4) A person that is not covered by the program and is not a
36 covered entity or opt-in entity may voluntarily participate in the
37 program as a general market participant. General market participants
38 must meet all applicable registration requirements specified by rule.

1 (5) Federally recognized tribes and federal agencies may elect to
2 participate in the program as opt-in entities or general market
3 participants.

4 (6) The department shall use a secure, online electronic tracking
5 system to: Register entities in the state program; issue compliance
6 instruments; track ownership of compliance instruments; enable and
7 record compliance instrument transfers; facilitate program
8 compliance; and support market oversight.

9 (7) The department must use an electronic tracking system that
10 allows two accounts to each covered or opt-in entity:

11 (a) A compliance account where the compliance instruments are
12 transferred to the department for retirement. Compliance instruments
13 in compliance accounts may not be sold, traded, or otherwise provided
14 to another account or person.

15 (b) A holding account that is used when a registered entity is
16 interested in trading allowances. Allowances in holding accounts may
17 be bought, sold, transferred to another registered entity, or traded.
18 The amount of allowances a registered entity may have in its holding
19 account is constrained by the holding limit as determined by the
20 department by rule. Information about the contents of each holding
21 account, including but not limited to the number of allowances in the
22 account, must be displayed on a regularly maintained and searchable
23 public website established and updated by the department.

24 (8) Registered general market participants are each allowed an
25 account, to hold, trade, sell, or transfer allowances.

26 (9) The department shall maintain an account for the purpose of
27 retiring allowances transferred by registered entities and from the
28 voluntary renewable reserve account.

29 (10)(a) The department shall maintain a public roster of all
30 covered entities, opt-in entities, and general market participants on
31 the department's public website.

32 (b) At the conclusion of each auction of allowances, including
33 allowances during a special auction of allowances from the allowance
34 price containment reserve or the emissions containment reserve, the
35 department must publish the following information on the department's
36 website:

37 (i) The number of allowances purchased by each entity registered
38 with the department as a general market participant;

1 (ii) The proportion of allowances purchased in aggregate by
2 general market participants in the auction relative to the total
3 number of allowances auctioned; and

4 (iii) The cumulative proportion of allowances purchased in
5 aggregate at auction by general market participants relative to the
6 total number of allowances auctioned, dating to the start of the
7 contemporary compliance period.

8 (c) Promptly after the conclusion of each compliance period, the
9 department must publish the following information on the department's
10 website:

11 (i) The total number of retired compliance instruments that were,
12 at one time during the compliance period, held by general market
13 participants;

14 (ii) The proportion of compliance instruments that were, at one
15 point prior to retirement, held by a general market participant,
16 relative to the total number of allowances retired during that
17 compliance period;

18 (iii) The number of transactions of compliance instruments
19 involving at least one general market participant as a buyer or
20 seller;

21 (iv) A rank-ordered list of the most active general market
22 participants, numbered in descending order based on the number of
23 transactions each general market participant participated in during
24 the preceding compliance period; and

25 (v) The average gross profit margin, positive or negative, of the
26 compliance instrument sales by each general market participant during
27 the preceding compliance period.

28 (d) The information specified in (b) and (c) of this subsection
29 is not confidential or exempt from public disclosure under RCW
30 70A.65.100(9).

31 (11) The department shall include a voluntary renewable reserve
32 account.

33 **Sec. 4.** RCW 70A.65.220 and 2021 c 316 s 25 are each amended to
34 read as follows:

35 (1) The department shall adopt rules to implement the provisions
36 of the program established in RCW 70A.65.060 through 70A.65.210. The
37 department may adopt emergency rules pursuant to RCW 34.05.350 for
38 initial implementation of the program, to implement the state omnibus
39 appropriations act for the 2021-2023 fiscal biennium, and to ensure

1 that reporting and other program requirements are determined early
2 for the purpose of program design and early notice to registered
3 entities with a compliance obligation under the program.

4 (2) The department must adopt emergency rules consistent with the
5 provisions of chapter 34.05 RCW to implement the provisions of RCW
6 70A.65.090(10) (b) and (c) to enable reporting of the information
7 specified therein to begin no later than January 1, 2025. The rules
8 adopted by the department under this subsection may require the
9 reporting of information to the department by general market
10 participants and, if necessary, covered and opt-in entities, to the
11 extent necessary to allow the department to make public the
12 information specified in RCW 70A.65.090(10) (b) and (c).

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