Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Environment & Energy Committee

HB 1549

Brief Description: Directing the department of ecology to adopt a rule governing the evaluation of greenhouse gas emissions under chapter 43.21C RCW.

Sponsors: Representatives Blake, Chapman, Springer and Fey.

Brief Summary of Bill

- Directs the Department of Ecology (Ecology) to adopt a rule that establishes the process by which lead agencies evaluate environmental impacts of greenhouse gas emissions when conducting environmental review of project and non-project actions under the State Environmental Policy Act.
- Establishes requirements for the rule.
- Requires Ecology to submit a report to the Legislature in 2020, and every three years thereafter, that includes inventories of, and anticipated trends for, emissions for categories of various industries and activities.

Hearing Date: 2/7/19

Staff: Robert Hatfield (786-7117).

Background:

State Environmental Policy Act.
The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land use plans. The SEPA environmental review process involves a project proponent or the lead agency completing an environmental checklist to identify and evaluate probable environmental impacts. Government decisions that the SEPA checklist process identifies as having significant adverse environmental impacts must then undergo a more comprehensive environmental analysis in the form of an environmental impact statement (EIS).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Projects which undergo a SEPA review may be required to mitigate significant adverse environmental impacts in order to receive approval from the government entity performing the SEPA analysis. Project proponents may also choose to mitigate environmental impacts identified in the environmental checklist in order to receive a determination that the project does not have significant environmental impacts, and therefore can avoid the process of completing an EIS for the project.

Under SEPA rules adopted by the Department of Ecology, air quality and climate are among the elements of the environment that must be considered by lead agencies.

Summary of Bill:

The Department of Ecology (Ecology) must adopt a rule that establishes the process by which lead agencies evaluate environmental impacts of greenhouse gas emissions when conducting environmental review of project and non-project actions under the Stater Environmental Policy Act (SEPA). The rule must be adopted by July 1, 2020.

The rule is subject to the following requirements:

- the rule must establish a threshold of emissions below which an action's direct and indirect emissions of greenhouse gases will not be deemed probable, significant adverse impacts for purposes of SEPA;
- for atctions that exceed the threshold described above, the rule must establish a methodology by which lead agencies evaluate whether the action's direct and indirect emissions are probable, significant adverse impacts for purposes of SEPA;
- the rule must provide guidance to lead agencies for determining under what circumstances it is appropriate to issue a determination of nonsignificance or mitigated determination of nonsignificance on the basis of the direct and indirect impacts of the action;
- lead agencies must consider the same scope and context the lead agency uses to quantify the inventory of indirect emissions;
- the existence of significant cumulative impacts caused by other sources of greenhouse gas emissions does not constitute substantial evidence that the proposed action's contributions to global emissions are cumulatively significant;
- the rule must identify how the lead agency should evaluate market substitution or displacement effects when assessing the significance of the full life cycle impacts of an action;
- if the rule requires consideration of global life-cycle emissions, it must also establish a threshold of direct emissions attributable to an action below which the lead agency may not consider global life-cycle emissions associated with the action; and
- the rule must establish a methodology by which a lead agency may address impacts of climate change on a proposed action through resiliency and adaptation planning, including but not limited to site design and other measures to address sea level rise and increased risks of severe storm events and wildfire.

The rule must establish a framework by which lead agencies may calculate an inventory of direct and indirect emissions that are reasonably attributable to an action. The framework is subject to the following requirements:

- the framework must specify the scope and context that the lead agency must use to quantify an action's indirect impacts, including whether the lead agency must consider global life-cycle emissions attributable to an action or only those emissions occurring within the state;
- the framework must authorize lead agencies to incorporate prior environmental review and other inventories that quantify emissions for categories of activities and industries that have been prepared by Ecology, including those included in the report prepared by Ecology pursuant to the act; and
- the framework must authorize lead agencies to rely on policies and regulations adopted by other agencies with regulatory jurisdiction over any direct or indirect emissions of an action to predict emissions and emission trends in the inventory.

The rule must establish a methodology by which a lead agency must identify reasonable mitigation measures when the lead agency determines conditions are necessary to mitigate emissions of greenhouse gases of an action. The methodology is subject to the following requirements:

- The methodology must recognize reductions and measures undertaken by the applicant or other parties that mitigate direct and indirect impacts associated with the proposed action;
- The methodology must authorize the lead agency to rely on and consider various specified mitigation measures;
- The methodology must identify acceptable sources for purchase of carbon offsets as a means of mitigation;
- The methodology may authorize mitigation for greenhouse gas emissions only if the mitigation is reasonable and capable of being accomplished; and
- The methodology may not require mitigation in excess of a proportionate share of the state's greenhouse gas reduction targets, nor may it require mitigation that eliminates completely the impact of the greenhouse gas emissions of an action in order to be considered sufficient to mitigate that impact.

The Department of Ecology must submit a report to the Legislature that includes inventories of, and anticipated trends for, emissions for categories of industries and activities, including transportation activities, and how those inventories and trends may be used in project and non-project environmental review. The inventories must use the same scope and context for emissions as is required by rules adopted pursuant to SEPA for lead agencies when quantifying the inventory of indirect emissions. The report is due by July 1, 2020, and must be updated every three years.

Prior to adopting the rule, Ecology must engage in government-to-government consultation with Indian tribes.

As part of the rule-making process, Ecology must convene and consult with a stakeholder group composed of representatives from the following groups:

- agriculture;
- forestry;
- environmental interest organizations;
- environmental justice organizations;
- cities;
- counties;

- port districts; and
- business groups.

When the state develops comprehensive strategies to achieve state greenhouse gas reduction goals, Ecology must review the rule in order to ensure consistency with those strategies.

Appropriation: None.

Fiscal Note: Requested on January 29, 2019.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.