
SENATE BILL 5561

State of Washington

66th Legislature

2019 Regular Session

By Senators Takko, King, and Hobbs

1 AN ACT Relating to directing the department of ecology to adopt a
2 rule governing the evaluation of greenhouse gas emissions under
3 chapter 43.21C RCW; and adding new sections to chapter 43.21C RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.21C
6 RCW to read as follows:

7 By July 1, 2020, the department of ecology shall adopt a rule
8 establishing the process by which lead agencies evaluate
9 environmental impacts of greenhouse gas emissions when conducting
10 environmental review of project and nonproject actions pursuant to
11 this chapter. The rule is subject to the following requirements:

12 (1) The rule must establish a threshold of emissions below which
13 an action's direct and indirect emissions of greenhouse gases will
14 not be deemed probable, significant adverse impacts for purposes of
15 this chapter;

16 (2) For actions with direct and indirect emissions of greenhouse
17 gases that exceed the threshold required by subsection (1) of this
18 section, the rule must establish a methodology by which lead agencies
19 evaluate whether the action's direct and indirect emissions are
20 probable, significant adverse impacts for purposes of this chapter;

1 (3) The rule must provide guidance to lead agencies for
2 determining under what circumstances it is appropriate to issue a
3 determination of nonsignificance or mitigated determination of
4 nonsignificance on the basis of the direct and indirect impacts of
5 the action;

6 (4) The rule must require lead agencies to consider the same
7 scope and context the lead agency uses to quantify the inventory of
8 indirect emissions, such that the significance of global life-cycle
9 emissions are evaluated in the context of global carbon emissions and
10 the significance of emissions that occur within Washington state are
11 evaluated in the context of total greenhouse gas emissions that occur
12 within the borders of the state;

13 (5) The rule must acknowledge that the existence of significant
14 cumulative impacts caused by other sources of greenhouse gas
15 emissions does not constitute substantial evidence that the proposed
16 action's contribution to global emissions are cumulatively
17 significant;

18 (6) The rule must identify how the lead agency should evaluate
19 market substitution or displacement effects when assessing the
20 significance of the full life cycle impacts of an action;

21 (7) The rule must provide guidance to lead agencies for
22 addressing greenhouse gas reductions targets in chapter 70.235 RCW
23 for new source emissions, which must specifically accommodate and
24 encourage new technology intended to substitute for or replace
25 existing technologies that achieve the same production goals with
26 fewer greenhouse gas emissions;

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

31 (a) The framework must specify the scope and context the lead
32 agency must use to quantify an action's indirect impacts, including
33 whether the lead agency must consider global life-cycle emissions
34 attributable to an action or only those emissions occurring within
35 the state;

36 (b) When quantifying an action's indirect impacts, the framework
37 required by this section must authorize lead agencies to incorporate
38 prior environmental review and other inventories that quantify
39 emissions for categories of activities and industries that have been

1 prepared by the department of ecology, including those required by
2 section 2 of this act, industry groups, or other lead agencies; and

3 (c) The framework required by this section must also authorize
4 lead agencies to rely on adopted policies and regulations of other
5 agencies with regulatory jurisdiction over any direct or indirect
6 emissions of an action to predict emissions and emission trends in
7 the inventory;

8 (9) If the rule requires consideration of global life-cycle
9 emissions in any fashion, it must also establish a threshold of
10 direct emissions attributable to an action below which the lead
11 agency may not consider global life-cycle emissions associated with
12 that action;

13 (10) The rule must establish a methodology by which a lead agency
14 must identify reasonable mitigation measures when the agency
15 determines conditions are necessary to mitigate emissions of
16 greenhouse gases of an action pursuant to RCW 43.21C.060. The
17 methodology is subject to the following requirements:

18 (a) The methodology must recognize reductions and measures
19 undertaken by the applicant or other parties that mitigate direct and
20 indirect impacts associated with the proposed action;

21 (b) The methodology must authorize the lead agency to rely on and
22 consider reasonable mitigation measures including, but not limited
23 to, the following: Market offsets; new technology intended to
24 substitute for or replace existing technologies that achieve the same
25 production goals with fewer greenhouse gas emissions; alternate fuels
26 (particularly renewable fuels) or energy systems; best available
27 control technologies (BACT); potential measures to reduce wasteful,
28 inefficient, and unnecessary consumption of energy during
29 construction, operation, maintenance, and removal; the potential of
30 siting, orientation, and design to minimize energy consumption,
31 including transportation energy; and, any other actions or measures
32 required by adopted plans, policies, or regulations of other agencies
33 with jurisdiction over greenhouse gas emissions that would result in
34 a reduction of direct or indirect greenhouse gas emissions associated
35 with the action;

36 (c) The methodology must identify acceptable sources for purchase
37 of carbon offsets as a means of mitigation; and

38 (d) The methodology may, consistent with RCW 43.21C.060,
39 authorize mitigation for greenhouse gas emissions only if this
40 mitigation is reasonable and capable of being accomplished. The

1 methodology may not require mitigation in excess of a proportional
2 share of the state's reduction targets set forth in chapter 70.235
3 RCW or mitigation that eliminates completely the impact of the
4 greenhouse gas emissions of an action in order to be considered
5 sufficient to mitigate that impact for purposes of RCW 43.21C.060;

6 (11) The rule must establish a methodology by which a lead agency
7 may address impacts of climate change on a proposed action through
8 resiliency and adaptation planning, including but not limited to site
9 design and other measures to address sea level rise and increased
10 risks of severe storm events and wildfire.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.21C
12 RCW to read as follows:

13 By July 1, 2020, the department of ecology shall submit a report
14 to the standing committees of the legislature with jurisdiction over
15 this chapter that includes inventories of and anticipated trends for
16 emissions for categories of industries and activities, including
17 transportation activities, and how those inventories and trends may
18 be used in project and nonproject environmental review. The
19 inventories must use the same scope and context for emissions as is
20 required by rules adopted pursuant to this chapter for lead agencies
21 when quantifying the inventory of indirect emissions. The department
22 of ecology shall update its report every three years.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.21C
24 RCW to read as follows:

25 The department of ecology shall adopt rules required by section 1
26 of this act. Prior to adopting the rules required by section 1 of
27 this act, the department of ecology shall engage in government-to-
28 government consultation with Indian tribes consistent with chapter
29 43.376 RCW. As part of the rule-making process, the department of
30 ecology shall convene and consult with a stakeholder group composed
31 of representatives from the following groups: Agriculture, forestry,
32 environmental interest organizations, environmental justice
33 organizations, cities, counties, port districts, and business
34 interest groups. When the state develops comprehensive strategies to
35 achieve the reductions goals in chapter 70.235 RCW, the department of

1 ecology shall review the rules adopted pursuant to section 1 of this
2 act to ensure consistency with those strategies.

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