
Environment & Energy Committee

HB 2073

Brief Description: Concerning emissions of greenhouse gases from sources other than methane and carbon dioxide.

Sponsors: Representatives Slatter and Fitzgibbon.

Brief Summary of Bill

- Requires the Department of Ecology (Ecology) to complete a study by July 1, 2025 addressing sulfuryl fluoride and greenhouse gases with a high global warming potential used for anesthetic purposes (anesthetic GHGs), and to submit recommendations to the Legislature by October 1, 2025.
- Requires Ecology to develop a guidance document for the reduction of greenhouse gas emissions from the use of anesthetic GHGs, and requires facilities at which medical, dental, and veterinary practitioners use anesthetic GHGs to only use anesthesia in a manner consistent with the guidance document, beginning July 1, 2026.
- Adds sulfuryl fluoride as a greenhouse gas under Washington greenhouse gas reporting statutes, beginning with calendar year 2025 reporting.
- Requires Ecology to identify the availability and feasibility of safer alternatives to sulfuryl fluoride as a fumigant.

Hearing Date: 1/11/24

Staff: Jacob Lipson (786-7196).

Background:

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

Greenhouse Gas Identification, Reporting, and the Climate Commitment Act.

Under state law for purposes of greenhouse gas emission reporting requirements, tracking progress towards state emission limits, and the Climate Commitment Act (CCA), carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride are identified in statute as greenhouse gases (GHGs). In addition, the Department of Ecology (Ecology) has the authority to designate other GHGs by rule, and has used that authority to designate numerous additional chemicals as GHGs. Among the chemicals that Ecology has identified by rule are Desflurane, Isoflurane, Halothane, and Sevoflurane, which are used in various types of medical settings as an anesthetic. Another chemical used primarily as a structural fumigant pesticide, sulfuryl fluoride, is not currently identified by Ecology rule as a GHG.

According to the Environmental Protection Agency, the global warming potential (GWP) of each GHG is a function of how much of the gas is concentrated in the atmosphere, how long the gas stays in the atmosphere, and how strongly the particular gas affects global atmospheric temperatures. Under state law, the GWP of a gas is measured in terms of the equivalence to the emission of an identical volume of carbon dioxide over a 100-year timeframe (carbon dioxide equivalent or CO₂e). Ecology designates the GWP of Desflurane as 989, Sevoflurane as 216, Isoflurane as 350, Halothane as 41, and Nitrous Oxide as 298.

At the state level, GHG reporting is regulated by Ecology under the state Clean Air Act. This state law requires facilities, sources, and sites whose emissions of GHGs exceed 10,000 metric tons of CO₂e each year to report their annual emissions to Ecology. Ecology is responsible for monitoring and tracking the state's progress in achieving emissions limits set for the years 2030, 2040, and 2050. The 2021 CCA establishes a program to cap on GHG emissions from covered entities and a program to track, verify, and enforce compliance through the use of compliance instruments, which include allowances or eligible offset credits. Under the CCA, annual allowance budgets are set at a level to achieve the share of reductions by covered entities necessary to achieve the state's 2030, 2040, and 2050 emissions limits. Covered entities must obtain, by no-cost allocation from Ecology, purchase at auction, or purchases from other parties, compliance instruments in a timely manner and in an amount necessary to meet the compliance obligations associated with their emissions.

Alternative Assessments and Chemical Information Reporting.

The Safer Products for Washington program implemented by Ecology, in consultation with the Department of Health, provides an administrative process for the regulation of priority chemicals in priority consumer products. Under this process, certain chemicals were defined as priority chemicals, and Ecology may designate additional chemicals as priority chemicals. Ecology must identify priority consumer products that include priority chemicals and may then determine regulatory actions related to those chemicals in a priority consumer product.

Various state laws require state agencies to study of the availability and feasibility in certain

consumer products, including Per- and Polyfluoroalkyl chemicals in food packaging, certain chemicals in brake friction materials, and Polybrominated Diphenyl Ether flame retardants in mattresses. Sometimes, regulatory authority to restrict the use of a chemical in a consumer product is made contingent upon a determination by a state agency that a safer alternative exists; for example, under Safer Products for Washington, Ecology's ability to restrict or prohibit a priority chemical in a priority consumer product is contingent upon a determination that safer alternatives are feasible and available.

Under both the Safer Products for Washington program and the Children's Safe Product Act, the Department of Ecology may require a manufacturer to submit certain information related to the use of a chemical in a product, including a description of the function of the chemical in the product, and the amount of the chemical used in the product.

Summary of Bill:

The Department of Ecology (Ecology) must commission a study that analyzes certain aspects of the greenhouse gas (GHG) emissions in Washington from sulfuranyl fluoride and anesthetic gases with a high global warming potential (anesthetic GHGs), including the evidence supporting the inclusion of sulfuranyl fluoride as a GHG, potential sources of the gases in Washington, estimates on the quantity of emissions, and recommends potential points of regulation for each gas. The study must be completed by July 1, 2025, and Ecology, in consultation with the Department of Health, must submit recommendations that consider the results of the study to the Legislature by October 1, 2025.

By January 1, 2026, Ecology must develop and publish a guidance document with a goal to reduce emissions from anesthetic GHGs used in medical, dental, veterinary, and similar facilities, but without unduly limiting the ability of medical, dental, and veterinary professionals to provide safe and effective care. The guidance document must address Sevoflurane, Desflurane, Isoflurane, Halothane, and Nitrous Oxide. Ecology must consult with the Department of Health in development the guidance document and solicit input from a number of medical system regulators, medical associations, and other specified stakeholders. Ecology must consider the efforts of other jurisdictions on anesthetic GHGs, best practices prepared by medical professional associations, and existing practices in place at facilities. By July 1, 2026, facilities and practitioners that use anesthetic GHGs may only do so in compliance with Ecology's guidance document. No penalties are prescribed for violations of this requirement.

Sulfuranyl fluoride is added to the statutory list of gases considered GHGs and used for facility emission reporting, statewide emission tracking, and Climate Commitment Act purposes. Annual reports of GHG emissions to Ecology from persons required to report must include emissions data related to sulfuranyl fluoride, beginning with calendar year 2025 GHG emissions reporting.

Ecology, in consultation with the Department of Agriculture, must identify the availability and feasibility of safer alternatives to the use of sulfuranyl fluoride as a fumigant. Ecology may order a

manufacturer, distributor, or importer of sulfuryl fluorides or potential safer alternatives to submit information about the chemical in a manner consistent with Safer Products for Washington and the Children's Safe Products Act, or other information relevant to determining the volume, GHG emissions, or human health hazards associated with a chemical. Ecology must receive the information ordered in this manner within four months of a person receiving the order.

Ecology must submit a report to the Legislature by October 1, 2025, regarding the availability of safer alternatives to sulfuryl fluoride and recommendations for actions to reduce sulfuryl fluoride emissions.

A severability clause is included.

Appropriation: None.

Fiscal Note: Requested on January 3, 2024.

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