
HOUSE BILL 1749

State of Washington

69th Legislature

2025 Regular Session

By Representatives Pollet, Lekanoff, Parshley, and Scott

Read first time 01/30/25. Referred to Committee on Environment & Energy.

1 AN ACT Relating to ensuring consideration of climate change,
2 carbon sequestration, environmental health disparities, and treaty-
3 protected and cultural resources in the state environmental policy
4 act; adding a new section to chapter 43.21C RCW; and creating a new
5 section.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that the state
8 environmental policy act requires broad consideration by lead
9 agencies of impacts of proposed government actions on diverse aspects
10 of the natural and built environments and human health. While the
11 state environmental policy act requires this broad analysis of all
12 environmental impacts of a proposed action, the state environmental
13 policy act checklist adopted by the department would be more accurate
14 and useful in reflecting the obligations of project proponents and
15 lead agencies if it more accurately incorporated crucial state and
16 local adopted policies relating to addressing climate change. This
17 includes improved identification of, or guidance to assess, the
18 potential to improve or reduce carbon sequestration in state forests.
19 The flaws of the current checklist and guidance, as compared to the
20 actual statutory obligations of lead agencies, has led to several
21 court decisions invalidating the state environmental policy act

1 threshold determinations for proposed timber sales that did not
2 consider the potential for carbon sequestration on individual
3 proposed sales of mature complex forest.

4 (2) Similarly, the legislature finds that the current state
5 environmental policy act checklist and review process does not give
6 adequate guidance to ensure that applicants understand that they
7 should be considering in threshold determinations: (a) The potential
8 for projects and programs to significantly contribute to climate
9 change, including from life-cycle emissions of greenhouse gases; (b)
10 the potential to harm climate change related goals and policies
11 related to promoting carbon sequestration; (c) the potential for
12 increasing health disparities in overburdened communities and
13 vulnerable communities; or (d) the potential for harming treaty-
14 protected resources on ceded lands within Washington and adversely
15 affecting access to, or preservation of, tribal cultural resources.

16 (3) The legislature intends for the state environmental policy
17 act checklist and guidance be updated to ensure consideration of each
18 of these important health and environmental values.

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

21 (1) The department shall add the following as elements of the
22 environment within WAC 197-11-444 and as a component of the
23 environment within WAC 197-11-960, as those sections existed as of
24 the effective date of this section:

25 (a) Climate change;

26 (b) Carbon sequestration;

27 (c) Treaty-protected resources; and

28 (d) Exposures to environmental pollutants for overburdened
29 communities and vulnerable populations.

30 (2) A lead agency must, in implementing the requirements of this
31 chapter, consider the elements identified in subsection (1)(a)
32 through (d) of this section in a manner consistent with:

33 (a) Its consideration of other elements of the environment within
34 WAC 197-11-444; and

35 (b) The requirements of this section.

36 (3) Lead agency consideration of the climate change element
37 specified in subsection (1)(a) of this section must include
38 consideration of:

1 (a) Whether a proposed action may significantly increase life-
2 cycle emissions of greenhouse gases. The department must adopt
3 guidance to define life-cycle emissions of greenhouse gases, and to
4 identify levels of emissions that constitute significant increases
5 with potential adverse effects, based on the nature of a proposed
6 action. Life-cycle emissions must include reasonably foreseeable
7 emissions of greenhouse gases that may be generated outside the
8 physical boundaries or scope of a proposed action. The department
9 must consider the policies of RCW 43.21C.520 and 70A.65.080(9) in
10 adopting guidance under this section; and

11 (b) Whether a proposed action will assist in achieving climate
12 related goals or policies adopted by the state, including by the
13 legislature or any relevant state agencies. Consideration of this
14 portion of the element for purpose of threshold determinations and
15 substantive authority to mitigate or deny a proposed action under
16 this chapter includes, but is not limited to:

17 (i) Goals adopted under RCW 36.70A.070(9) and chapters 70A.45,
18 70A.65, and 19.405 RCW; and

19 (ii) Goals and policies adopted by local and state agencies for
20 retention or restoration of mature complex forests and tree canopy in
21 jurisdictions which may be impacted by the proposed action.

22 (c) If impacts specified in (b) of this subsection have not been
23 considered in an environmental impact statement accompanying the
24 adoption of a comprehensive plan for a proposed action,
25 notwithstanding any other provision of this chapter, a new analysis
26 and threshold determination must be made based on whether there are
27 significant potential adverse impacts to such climate related goals
28 and policies.

29 (4) Lead agency consideration of the carbon sequestration element
30 identified in subsection (1)(b) of this section must include
31 consideration of whether a proposed action would significantly reduce
32 potential for, or benefit the sequestration of carbon, including for
33 state and private forestlands, urban forests, soils, agricultural
34 lands, and marine environments. For proposed actions that have the
35 cumulative potential to significantly reduce mature complex forests
36 on state lands, rules or guidance adopted by the department must
37 provide that the proposed action has potential adverse impacts on
38 adopted goals for sequestration and preservation if the proposed
39 action relies on mitigation or natural forces, including in other
40 areas, that will take more than 20 years to restore or achieve.

1 (5) Lead agency consideration of the treaty-protected resources
2 identified in subsection (1)(c) of this section must include
3 consideration of whether a proposed action preserves, enhances, or
4 adversely affects any treated protected resources, including reducing
5 access to such resources. The department must ensure that
6 consideration of access to treaty-protected resources includes
7 whether tribal members exercising rights to gather, hunt, fish, or
8 consume such treaty-protected resources and to access such cultural
9 resources may have the potential to be exposed to environmental
10 contaminants resulting in potentially significant increased health
11 risks based on reasonable maximum exposure scenarios developed in
12 collaboration or consultation with potentially affected federally
13 recognized tribes. The department must adopt rules or guidance to
14 ensure that revisions or reviews of previously adopted plans, orders,
15 or permits that have not specifically considered the impact on
16 treaty-protected resources or ensured that health impacts will not
17 exceed standards utilizing a reasonable maximum exposure scenario
18 considering exercise of treaty rights are subject to a new threshold
19 determination and review under this section.

20 (6) Lead agency consideration of the exposures to environmental
21 pollutants for overburdened communities and vulnerable populations
22 identified in subsection (1)(d) of this section must include
23 consideration of whether a proposed action will result in exposures
24 to environmental pollutants for overburdened communities and
25 vulnerable populations with the potential to have significant adverse
26 health effects on residents and vulnerable populations that are
27 disparately greater than the prevalence or incidence of such health
28 effects in other comparable communities or populations. This
29 threshold screening analysis may rely on screening and map tools
30 adopted by the department, the department of health, or recommended
31 by the environmental justice council established in chapter 70A.02
32 RCW, and must include consideration of cumulative impacts in such
33 overburdened communities and vulnerable populations in conjunction
34 with other social determinants of health.

35 (7) The definitions in this subsection apply throughout this
36 section unless the context clearly requires otherwise.

37 (a) "Department" means the department of ecology.

38 (b) "Overburdened community" has the same meaning as in RCW
39 70A.02.010.

1 (c) "Vulnerable population" has the same meaning as in RCW
2 70A.02.010.

3 (d) "Treaty-protected resources" includes natural or cultural
4 resources of any federally recognized tribe with rights reserved to
5 access, utilize, or otherwise benefit tribal members on lands and
6 waters within Washington which were ceded to the United States, or
7 which are considered to be "Indian country" as provided in 18 U.S.C.
8 Sec. 1151 or "tribal lands" as defined in RCW 70A.02.010.

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