
Environment & Energy Committee

HB 1597

Brief Description: Incorporating comprehensive measurements of greenhouse gas emissions from certain fossil fuels into state environmental laws.

Sponsors: Representatives Pollet, Doglio, Tarleton, Goodman, Slatter, Senn, Fitzgibbon, Appleton, Thai, Valdez, Ryu, Stanford, Reeves, Frame, Macri and Shewmake.

Brief Summary of Bill

- Directs the Department of Ecology (ECY), in consultation with other state agencies, to adopt a rule establishing an upstream greenhouse gas (GHG) emissions rate associated with natural gas production, gathering, processing, storage, and distribution.
- Requires the ECY to adopt a related rule to specify the global warming potential associated with natural gas emissions over a 20-year time frame.
- Integrates the natural gas upstream emissions rate and global warming potential rule into other environmental and energy laws, including the State Environmental Policy Act, the state Clean Air Act and GHG emission reporting laws, carbon dioxide mitigation laws for thermal power plants, and utility resource planning laws.

Hearing Date: 2/12/19

Staff: Jacob Lipson (786-7196).

Background:

Federal and State Regulation of Greenhouse Gases.

The United States Environmental Protection Agency (EPA) and the Department of Ecology (ECY) identify carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride as greenhouse gases (GHGs) because of their capacity to trap heat in the Earth's atmosphere. According to the EPA, 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.

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.

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). Under the federal Clean Air Act, GHGs are regulated as an air pollutant and are subject to several air regulations administered by the EPA. These federal Clean Air Act regulations include a requirement that facilities and fuel suppliers whose associated annual emissions exceed 25,000 metric tons of carbon dioxide equivalent report their emissions to the EPA. At the state level, GHGs are regulated by the ECY under the state Clean Air Act. This state law requires facilities, sources, and sites whose emissions exceed 10,000 metric tons of carbon dioxide equivalent each year to report their annual emissions to the ECY or to local air pollution control authorities that implement the state Clean Air Act. The ECY has adopted rules governing the reporting of GHG emissions that specify the GHG emissions calculation methodology for covered facilities.

In September 2016 the ECY adopted a rule under state Clean Air Act authority (the Clean Air Rule) to limit emissions of GHGs from certain stationary emission sources, petroleum product producers and importers, and natural gas distributors. In December 2017 a Thurston County Superior Court judge adjudicating a legal challenge to the Clean Air Rule ruled from the bench that the ECY's rule exceeded statutory authority. The ECY appealed that decision directly to the state supreme court, where oral arguments in the case are scheduled for March 2019.

Greenhouse Gas Limits.

In 2008 state limits were established for the emissions of GHGs as follows:

- by 2020, overall GHG emissions in the state must be reduced to 1990 levels;
- by 2035, overall GHG emissions in the state must be reduced to 25 percent below 1990 levels; and
- by 2050, overall GHG emissions in the state must be reduced to 50 percent below 1990 levels, or 70 percent below the state's expected emissions for that year.

These statutory emission limits do not specify how the state must achieve the established limits, nor are emission reductions required to be achieved by particular entities or types of entities. The ECY and Department of Commerce (COM) must report to the Governor and Legislature by December 31 of even-numbered years regarding the total GHG emissions and GHG emissions by source sector.

Carbon Dioxide Mitigation Requirements for Fossil Fuel Thermal Power Plants.

Fossil-fueled thermal power plants with a generating capacity of 25 megawatts (MW) or greater must provide mitigation for 20 percent of the carbon dioxide emissions produced by the plant over a period of 30 years. This requirement applies to new power plants seeking site certification with the Energy Facility Site Evaluation Council or an order of approval after July 1, 2004, and to existing plants that increase the production of carbon dioxide emissions by 15 percent or more.

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).

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 ECY, air quality and climate are among the elements of the environment that must be considered by lead agencies.

Investor-owned Utility Ratemaking.

The Utilities and Transportation Commission (UTC) has the power upon complaint or upon its own motion to determine the fair value, for ratemaking purposes, of the property of an investor-owned gas or electric utility that is used and useful for service in the state by or during the rate effective period. The valuation may include consideration of any property of the investor-owned utility acquired or constructed by or during the rate effective period, including the reasonable costs of construction work in progress, to the extent the UTC finds that such an inclusion is in the public interest and will yield fair, just, reasonable, and sufficient rates.

Energy Facility Site Evaluation Council.

The Energy Facility Site Evaluation Council EFSEC is responsible for making certification recommendations to the Governor for certain new energy facility construction or existing facility expansion proposals.

Utility Resource Planning.

Each electric utility must develop a resource plan. Utilities with 25,000 or more customers that are not fully served by the BPA must develop Integrated Resource Plans (IRPs). An IRP must include forecasts of projected customer demand and assessments of commercially available conservation and efficiency resources and renewable and nonrenewable technologies. Utilities with fewer than 25,000 customers or that are fully-served BPA customers must complete a Resource Plan with fewer required components than IRPs. IRPs and other Resource Plans must be updated at least every two years.

Summary of Bill:

Natural Gas Upstream Emissions Rule.

The Department of Ecology (ECY), in consultation with other specified state agencies, must adopt a rule (Natural Gas Upstream Emissions Rule) to establish an upstream emissions rate that incorporates emissions from the production, gathering, processing, transmission, storage, and distribution of natural gas prior to end use or a final point of commerce in Washington. In conjunction with this rule, the ECY's rules must specify the global warming potential associated with natural gas emissions over a 20-year timeframe.

In adopting the rule, the ECY:

- must survey studies of North American natural gas upstream emissions;

- may require gas pipeline companies and gas or electrical companies to submit emissions information related to emissions of natural gas that occur prior to the end use of the natural gas; and
- must presume a reasonable worst case upstream emissions rate, through which the ECY attempts to provide a 95 percent confidence level that the actual emissions associated with natural gas are below the established rate.

The ECY must evaluate the accuracy of the upstream emissions rate every three years beginning in 2024, and must update the Natural Gas Upstream Emissions Rule (Emissions Rule) if appropriate. The ECY must provide an opportunity for interested parties to comment on the information considered in the development of the Emissions Rule.

Integration of Natural Gas Upstream Emissions Rule into Other Environmental Laws.

The Emissions Rule must be uniformly applicable to natural gas proposals and projects, and may not specify a utility-specific or project-specific upstream emissions rate. The Emissions Rule must apply broadly to government decision-making involving the environmental review or permitting of projects that use natural gas as a fuel source or primary project component.

The following activities under environmental laws must be consistent with the Emissions Rule:

- the implementation and enforcement of the state Clean Air Act and state greenhouse gas (GHG) limits;
- the study of environmental impact information for proposed potential sites under review by the Energy Facility Site Evaluation Council;
- assessments in electric utility resource plans; and
- implementation and enforcement of gas and electric rate-making authority by the Utilities and Transportation Commission (UTC), as well as other generally-applicable regulatory provisions to gas companies, and electric companies involving the UTC.

Under the state Clean Air Act, the ECY must require reported GHG emissions from natural gas to include the emissions consistent with the Natural Gas Upstream Emissions and Global Warming Potential Rule. Production, gathering, processing, transmission, storage, and distribution emissions from natural gas must be reported as separate measurements from end-use emissions.

The Rule must be applied in the review of proposed actions under the State Environmental Policy Act (SEPA) involving the use of natural gas by either:

- a person required to report GHG emissions under the state Clean Air Act; or
- a facility or project whose associated direct or indirect annual GHG emissions may reasonably be anticipated to exceed 10,000 tons per year.

The ECY must evaluate the appropriateness of this emissions threshold every three years, and recommend amendments to it in a report to the Legislature.

The mitigation of emissions by new fossil fuel thermal power plants must be based upon the carbon dioxide equivalents associated with both the end use of natural gas and the upstream emissions, calculated consistent with the Rule.

Appropriation: None.

Fiscal Note: Requested on February 5, 2019.

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