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**SENATE BILL 5561**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Takko, King, and Hobbs

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

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

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

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

(1) 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 this chapter;

(2) For actions with direct and indirect emissions of greenhouse gases that exceed the threshold required by subsection (1) of this section, 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 this chapter;

(3) 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;

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

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

(6) 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;

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

(8) 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:

(a) The framework must specify the scope and context 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;

(b) When quantifying an action's indirect impacts, the framework required by this section 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 the department of ecology, including those required by section 2 of this act, industry groups, or other lead agencies; and

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

(9) If the rule requires consideration of global life-cycle emissions in any fashion, 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 that action;

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

(a) 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;

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

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

(d) The methodology may, consistent with RCW 43.21C.060, authorize mitigation for greenhouse gas emissions only if this mitigation is reasonable and capable of being accomplished. The methodology may not require mitigation in excess of a proportional share of the state's reduction targets set forth in chapter 70.235 RCW or mitigation that eliminates completely the impact of the greenhouse gas emissions of an action in order to be considered sufficient to mitigate that impact for purposes of RCW 43.21C.060;

(11) 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.

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

By July 1, 2020, the department of ecology shall submit a report to the standing committees of the legislature with jurisdiction over this chapter 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 nonproject environmental review. The inventories must use the same scope and context for emissions as is required by rules adopted pursuant to this chapter for lead agencies when quantifying the inventory of indirect emissions. The department of ecology shall update its report every three years.

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

The department of ecology shall adopt rules required by section 1 of this act. Prior to adopting the rules required by section 1 of this act, the department of ecology shall engage in government-to-government consultation with Indian tribes consistent with chapter 43.376 RCW. As part of the rule-making process, the department of ecology shall 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 interest groups. When the state develops comprehensive strategies to achieve the reductions goals in chapter 70.235 RCW, the department of ecology shall review the rules adopted pursuant to section 1 of this act to ensure consistency with those strategies.

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