

FINAL BILL REPORT

SHB 2262

C 22 L 14
Synopsis as Enacted

Brief Description: Concerning the use of science to support significant agency actions.

Sponsors: House Committee on Environment (originally sponsored by Representatives Short, Fagan and Magendanz).

House Committee on Environment
Senate Committee on Energy, Environment & Telecommunications

Background:

The Department of Ecology (DOE) is divided into 10 environmental management programs, each covering a different subject area: air quality; environmental assessment; hazardous waste and toxics reduction; nuclear waste; shorelands and environmental assistance; spill prevention, preparedness, and response; toxics cleanup; waste to resources; water quality; and water resources. Programs within the Shorelands and Environmental Assistance Program include programs targeted to coastal zone management, federal permitting, floods and floodplain management, the Office of Regulatory Assistance, the State Environmental Policy Act, watersheds, and wetlands. Programs within the Water Quality Program include programs targeted to the administration of water quality grants and loans, ground and surface water quality, non-point pollution, permitting of point source pollution, stormwater, wastewater treatment, and water quality assessment.

The Administrative Procedure Act establishes the rule-making process for state agencies and outlines the procedural requirements for appealing an agency action. The state Public Records Act (PRA) establishes requirements for agency maintenance of public records, and for the provision of those records for public inspection. The PRA requires that certain public records, including records invoked by an agency, be indexed and made available to the public. The records that must be indexed include interpretive statements, policy statements, certain declaratory orders, and orders issued in adjudicative proceedings.

In 2013 legislation was enacted to require the DOE to identify peer-reviewed science, scientific literature, and other sources relied upon before taking a significant agency action within its Water Quality or Shorelands and Environmental Assistance programs. On its website, the DOE must also provide the index, required by the PRA, of public records invoked or relied upon in support of a proposed significant agency action. The 2013 law

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.

defined the term "significant agency action" as an act of the DOE that: (1) by rule, adopts, under delegated legislative authority, substantive requirements with penalties for noncompliance; (2) by rule, establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; (3) by rule amendment or adoption, results in significant amendments to an existing policy or program; or (4) results in the development of technical guidance, assessments, or documents used to implement a state rule or statute.

Summary:

On its website, the DOE must identify and categorize, in the form of a bibliography or citation list, the sources of information that it relies upon to support significant agency actions. Each source of information relied upon must be designated by the DOE as belonging to one of the following categories:

- independently peer-reviewed by a third party;
- internally peer-reviewed by DOE staff;
- externally peer-reviewed by DOE-selected persons;
- openly reviewed documents whose review was not limited to invited organizations or individuals;
- legal and policy documents;
- data from primary research or monitoring activities that have not been otherwise peer-reviewed;
- records of the best professional judgment of DOE employees and other individuals;
- and
- other sources of information.

The categories are declared to not imply or infer a hierarchy or a level of quality of the source of information.

The DOE indexing requirement that references a specific subsection of the PRA governing the use of indexed records by government agencies is replaced with a reference to the entire section which establishes indexing requirements for state and local agencies.

Votes on Final Passage:

House	98	0
Senate	49	0

Effective: June 12, 2014