

SSB 5135 - H COMM AMD

By Committee on Environment & Energy

ADOPTED AND ENGROSSED 4/15/19

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires
5 otherwise.

6 (1) "Consumer product" means any item, including any component
7 parts and packaging, sold for residential or commercial use.

8 (2) "Department" means the department of ecology.

9 (3) "Director" means the director of the department.

10 (4) "Manufacturer" means any person, firm, association,
11 partnership, corporation, governmental entity, organization, or joint
12 venture that produces a product or is an importer or domestic
13 distributor of a product sold or offered for sale in or into the
14 state.

15 (5) "Organohalogen" means a class of chemicals that includes any
16 chemical containing one or more halogen elements bonded to carbon.

17 (6) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS
18 chemicals" means a class of fluorinated organic chemicals containing
19 at least one fully fluorinated carbon atom.

20 (7) "Phenolic compounds" means alkylphenol ethoxylates and
21 bisphenols.

22 (8) "Phthalates" means synthetic chemical esters of phthalic
23 acid.

24 (9) "Polychlorinated biphenyls" or "PCBs" means chemical forms
25 that consist of two benzene rings joined together and containing one
26 to ten chlorine atoms attached to the benzene rings.

27 (10) "Priority chemical" means a chemical or chemical class used
28 as, used in, or put in a consumer product including:

29 (a) Perfluoroalkyl and polyfluoroalkyl substances;

30 (b) Phthalates;

31 (c) Organohalogen flame retardants;

1 (d) Flame retardants, as identified by the department under
2 chapter 70.240 RCW;

3 (e) Phenolic compounds;

4 (f) Polychlorinated biphenyls; or

5 (g) A chemical identified by the department as a priority
6 chemical under section 2 of this act.

7 (11) "Safer alternative" means an alternative that is less
8 hazardous to humans or the environment than the existing chemical or
9 chemical process. A safer alternative to a particular chemical may
10 include a chemical substitute or a change in materials or design that
11 eliminates the need for a chemical alternative.

12 (12) "Sensitive population" means a category of people that is
13 identified by the department that may be or is disproportionately or
14 more severely affected by priority chemicals, such as:

15 (a) Men and women of childbearing age;

16 (b) Infants and children;

17 (c) Pregnant women;

18 (d) Communities that are highly impacted by toxic chemicals;

19 (e) Persons with occupational exposure; and

20 (f) The elderly.

21 (13) "Sensitive species" means a species or grouping of animals
22 that is identified by the department that may be or is
23 disproportionately or more severely affected by priority chemicals,
24 such as:

25 (a) Southern resident killer whales;

26 (b) Salmon; and

27 (c) Forage fish.

28 (14) "Electronic product" includes personal computers, audio and
29 video equipment, calculators, wireless phones, game consoles, and
30 handheld devices incorporating a video screen that are used to access
31 interactive software, and the peripherals associated with such
32 products.

33 (15) "Inaccessible electronic component" means a part or
34 component of an electronic product that is located inside and
35 entirely enclosed within another material and is not capable of
36 coming out of the product or being accessed during any reasonably
37 foreseeable use or abuse of the product.

38 NEW SECTION. **Sec. 2.** Every five years, and consistent with the
39 timeline established in section 5 of this act, the department, in

1 consultation with the department of health, must report to the
2 appropriate committees of the legislature its decision to designate
3 at least five priority chemicals that meet at least one of the
4 following:

5 (1) The chemical or a member of a class of chemicals are
6 identified by the department as a:

7 (a) High priority chemical of high concern for children under
8 chapter 70.240 RCW; or

9 (b) Persistent, bioaccumulative toxin under chapter 70.105 RCW;

10 (2) The chemical or members of a class of chemicals are
11 regulated:

12 (a) In consumer products under chapter 70.240, 70.76, 70.95G,
13 70.280, 70.285, 70.95M, or 70.75A RCW; or

14 (b) As a hazardous substance under chapter 70.105 or 70.105D RCW;
15 or

16 (3) The department determines the chemical or members of a class
17 of chemicals are a concern for sensitive populations and sensitive
18 species after considering the following factors:

19 (a) A chemical's or members of a class of chemicals' hazard
20 traits or environmental or toxicological endpoints;

21 (b) A chemical's or members of a class of chemicals' aggregate
22 effects;

23 (c) A chemical's or members of a class of chemicals' cumulative
24 effects with other chemicals with the same or similar hazard traits
25 or environmental or toxicological endpoints;

26 (d) A chemical's or members of a class of chemicals'
27 environmental fate;

28 (e) The potential for a chemical or members of a class of
29 chemicals to degrade, form reaction products, or metabolize into
30 another chemical or a chemical that exhibits one or more hazard
31 traits or environmental or toxicological endpoints, or both;

32 (f) The potential for the chemical or class of chemicals to
33 contribute to or cause adverse health or environmental impacts;

34 (g) The chemical's or class of chemicals' potential impact on
35 sensitive populations, sensitive species, or environmentally
36 sensitive habitats;

37 (h) Potential exposures to the chemical or members of a class of
38 chemicals based on:

39 (i) Reliable information regarding potential exposures to the
40 chemical or members of a class of chemicals; and

1 (ii) Reliable information demonstrating occurrence, or potential
2 occurrence, of multiple exposures to the chemical or members of a
3 class of chemicals.

4 NEW SECTION. **Sec. 3.** (1) Every five years, and consistent with
5 the timeline established in section 5 of this act, the department, in
6 consultation with the department of health, shall identify priority
7 consumer products that are a significant source of or use of priority
8 chemicals. The department must submit a report to the appropriate
9 committees of the legislature at the time that it identifies a
10 priority consumer product.

11 (2) When identifying priority consumer products under this
12 section, the department must consider, at a minimum, the following
13 criteria:

14 (a) The estimated volume of a priority chemical or priority
15 chemicals added to, used in, or present in the consumer product;

16 (b) The estimated volume or number of units of the consumer
17 product sold or present in the state;

18 (c) The potential for exposure to priority chemicals by sensitive
19 populations or sensitive species when the consumer product is used,
20 disposed of, or has decomposed;

21 (d) The potential for priority chemicals to be found in the
22 outdoor environment, with priority given to surface water,
23 groundwater, marine waters, sediments, and other ecologically
24 sensitive areas, when the consumer product is used, disposed of, or
25 has decomposed;

26 (e) If another state or nation has identified or taken regulatory
27 action to restrict or otherwise regulate the priority chemical in the
28 consumer product;

29 (f) The availability and feasibility of safer alternatives; and

30 (g) Whether the department has already identified the consumer
31 product in a chemical action plan completed under chapter 70.105 RCW
32 as a source of a priority chemical or other reports or information
33 gathered under chapter 70.240, 70.76, 70.95G, 70.280, 70.285, 70.95M,
34 or 70.75A RCW.

35 (3) The department is not required to give equal weight to each
36 of the criteria in subsection (2)(a) through (g) of this section when
37 identifying priority consumer products that use or are a significant
38 source of priority chemicals.

1 (4) To assist with identifying priority consumer products under
2 this section and making determinations as authorized under section 4
3 of this act, the department may request a manufacturer to submit a
4 notice to the department that contains the information specified in
5 RCW 70.240.040 (1) through (6) or other information relevant to
6 subsection (2)(a) through (d) of this section. The manufacturer must
7 provide the notice to the department no later than six months after
8 receipt of such a demand by the department.

9 (5)(a) Except as provided in (b) of this subsection, the
10 department may not identify the following as priority consumer
11 products under this section:

- 12 (i) Plastic shipping pallets manufactured prior to 2012;
- 13 (ii) Food or beverages;
- 14 (iii) Tobacco products;
- 15 (iv) Drug or biological products regulated by the United States
16 food and drug administration;
- 17 (v) Finished products certified or regulated by the federal
18 aviation administration or the department of defense, or both, when
19 used in a manner that was certified or regulated by such agencies,
20 including parts, materials, and processes when used to manufacture or
21 maintain such regulated or certified finished products;
- 22 (vi) Motorized vehicles, including on and off-highway vehicles,
23 such as all-terrain vehicles, motorcycles, side-by-side vehicles,
24 farm equipment, and personal assistive mobility devices; and
- 25 (vii) Chemical products used to produce an agricultural
26 commodity, as defined in RCW 17.21.020.

27 (b) The department may identify the packaging of products listed
28 in (a) of this subsection as priority consumer products.

29 (6) For an electronic product identified by the department as a
30 priority consumer product under this section, the department may not
31 make a regulatory determination under section 4 of this act to
32 restrict or require the disclosure of a priority chemical in an
33 inaccessible electronic component of the electronic product.

34 NEW SECTION. **Sec. 4.** (1) Every five years, and consistent with
35 the timeline established in section 5 of this act, the department, in
36 consultation with the department of health, must determine regulatory
37 actions to increase transparency and to reduce the use of priority
38 chemicals in priority consumer products. The department must submit a

1 report to the appropriate committees of the legislature at the time
2 that it determines regulatory actions. The department may:

3 (a) Determine that no regulatory action is currently required;

4 (b) Require a manufacturer to provide notice of the use of a
5 priority chemical or class of priority chemicals consistent with RCW
6 70.240.040; or

7 (c) Restrict or prohibit the manufacture, wholesale,
8 distribution, sale, retail sale, or use, or any combination thereof,
9 of a priority chemical or class of priority chemicals in a consumer
10 product.

11 (2)(a) The department may order a manufacturer to submit
12 information consistent with section 3(4) of this act.

13 (b) The department may require a manufacturer to provide:

14 (i) A list of products containing priority chemicals;

15 (ii) Product ingredients;

16 (iii) Information regarding exposure and chemical hazard; and

17 (iv) A description of the amount and the function of the high
18 priority chemical in the product.

19 (3) The department may restrict or prohibit a priority chemical
20 or members of a class of priority chemicals in a priority consumer
21 product when it determines:

22 (a) Safer alternatives are feasible and available; and

23 (b)(i) The restriction will reduce a significant source of or use
24 of a priority chemical; or

25 (ii) The restriction is necessary to protect the health of
26 sensitive populations or sensitive species.

27 (4) When determining regulatory actions under this section, the
28 department may consider, in addition to the criteria pertaining to
29 the selection of priority chemicals and priority consumer products
30 that are specified in sections 2 and 3 of this act, whether:

31 (a) The priority chemical or members of a class of priority
32 chemicals are functionally necessary in the priority consumer
33 product; and

34 (b) A restriction would be consistent with regulatory actions
35 taken by another state or nation on a priority chemical or members of
36 a class of priority chemicals in a product.

37 (5) A restriction or prohibition on a priority chemical in a
38 consumer product may include exemptions or exceptions, including
39 exemptions to address existing stock of a product in commerce at the
40 time that a restriction takes effect.

1 NEW SECTION. **Sec. 5.** (1)(a) By June 1, 2020, and consistent
2 with section 3 of this act, the department shall identify priority
3 consumer products that are a significant source of or use of priority
4 chemicals specified in section 1(10) (a) through (f) of this act.

5 (b) By June 1, 2022, and consistent with section 4 of this act,
6 the department must determine regulatory actions regarding the
7 priority chemicals and priority consumer products identified in (a)
8 of this subsection.

9 (c) By June 1, 2023, the department must adopt rules to implement
10 regulatory actions determined under (b) of this subsection.

11 (2)(a) By June 1, 2024, and every five years thereafter, the
12 department shall select at least five priority chemicals specified in
13 section 1(10) (a) through (g) of this act that are identified
14 consistent with section 2 of this act.

15 (b) By June 1, 2025, and every five years thereafter, the
16 department must identify priority consumer products that contain any
17 new priority chemicals after notifying the appropriate committees of
18 the legislature, consistent with section 3 of this act.

19 (c) By June 1, 2027, and every five years thereafter, the
20 department must determine regulatory actions for any priority
21 chemicals in priority consumer products identified under (b) of this
22 subsection, consistent with section 4 of this act.

23 (d) By June 1, 2028, and every five years thereafter, the
24 department must adopt rules to implement regulatory actions
25 identified under (c) of this subsection.

26 (3)(a) The designation of priority chemicals by the department
27 does not take effect until the adjournment of the regular legislative
28 session immediately following the identification of chemicals, in
29 order to allow an opportunity for the legislature to add to, limit,
30 or otherwise amend the list of priority chemicals to be considered by
31 the department.

32 (b) The designation of priority consumer products by the
33 department does not take effect until the adjournment of the regular
34 legislative session immediately following the identification of
35 priority consumer products, in order to allow an opportunity for the
36 legislature to add to, limit, or otherwise amend the list of priority
37 consumer products to be considered by the department.

38 (c) The determination of regulatory actions by the department
39 does not take effect until the adjournment of the regular legislative
40 session immediately following the determination by the department, in

1 order to allow an opportunity for the legislature to add to, limit,
2 or otherwise amend the regulatory determinations by the department.

3 (d) Nothing in this subsection (3) limits the authority of the
4 department to:

5 (i) Begin to identify priority consumer products for a priority
6 chemical prior to the effective date of the designation of a priority
7 chemical;

8 (ii) Begin to consider possible regulatory actions prior to the
9 effective date of the designation of a priority consumer product; or

10 (iii) Initiate a rule-making process prior to the effective date
11 of a determination of a regulatory action.

12 (4) (a) When identifying priority chemicals and priority consumer
13 products under this chapter, the department must notify the public of
14 the selection, including the identification of the peer-reviewed
15 science and other sources of information that the department relied
16 upon, the basis for the selection, and a draft schedule for making
17 determinations. The notice must be published in the Washington State
18 Register. The department shall provide the public with an opportunity
19 for review and comment on the regulatory determinations.

20 (b) (i) By June 1, 2020, the department must create a stakeholder
21 advisory process to provide expertise, input, and a review of the
22 department's rationale for identifying priority chemicals and
23 priority consumer products and proposed regulatory determinations.
24 The input received from a stakeholder process must be considered and
25 addressed when adopting rules.

26 (ii) The stakeholder process must include, but is not limited to,
27 representatives from: Large and small business sectors; community,
28 environmental, and public health advocacy groups; local governments;
29 affected and interested businesses; an expert in scientific data
30 analysis; and public health agencies.

31 NEW SECTION. **Sec. 6.** (1) A manufacturer that submits
32 information or records to the department under this chapter may
33 request that the information or records be made available only for
34 the confidential use of the department, the director, or the
35 appropriate division of the department. The director shall give
36 consideration to the request and if this action is not detrimental to
37 the public interest and is otherwise within accord with the policies
38 and purposes of chapter 43.21A RCW, the director must grant the
39 request for the information to remain confidential as authorized in

1 RCW 43.21A.160. Under the procedures established under RCW
2 43.21A.160, the director must keep confidential any records furnished
3 by a manufacturer under this chapter that relate to proprietary
4 manufacturing processes or chemical formulations used in products or
5 processes.

6 (2) For records or other information furnished to the department
7 by a federal agency on the condition that the information be afforded
8 the same confidentiality protections as under federal law, the
9 director may determine that the information or records be available
10 only for the confidential use of the director, the department, or the
11 appropriate division of the department. All such records and
12 information are exempt from public disclosure. The director is
13 authorized to enter into an agreement with the federal agency
14 furnishing the records or information to ensure the confidentiality
15 of the records or information.

16 NEW SECTION. **Sec. 7.** (1) A manufacturer violating a requirement
17 of this chapter, a rule adopted under this chapter, or an order
18 issued under this chapter, is subject to a civil penalty not to
19 exceed five thousand dollars for each violation in the case of a
20 first offense. Manufacturers who are repeat violators are subject to
21 a civil penalty not to exceed ten thousand dollars for each repeat
22 offense.

23 (2) Any penalty provided for in this section, and any order
24 issued by the department under this chapter, may be appealed to the
25 pollution control hearings board.

26 (3) All penalties collected under this chapter shall be deposited
27 in the state toxics control account created in RCW 70.105D.070.

28 NEW SECTION. **Sec. 8.** (1) The department may adopt rules as
29 necessary for the purpose of implementing, administering, and
30 enforcing this chapter.

31 (2) (a) The department must adopt rules to implement the
32 determinations of regulatory actions specified in section 4(1) (b) or
33 (c) of this act. When proposing or adopting rules to implement
34 regulatory determinations specified in this subsection, the
35 department must identify the expected costs and benefits of the
36 proposed or adopted rules to state agencies to administer and enforce
37 the rules and to private persons or businesses, by category of type
38 of person or business affected.

1 (b) A rule adopted to implement a regulatory determination
2 involving a restriction on the manufacture, wholesale, distribution,
3 sale, retail sale, or use of a priority consumer product containing a
4 priority chemical may take effect no sooner than three hundred sixty-
5 five days after the adoption of the rule.

6 (c) Each rule adopted to implement a determination of regulatory
7 action specified in section 4(1) (b) or (c) of this act is a
8 significant legislative rule for purposes of RCW 34.05.328. The
9 department must prepare a small business economic impact statement
10 consistent with the requirements of RCW 19.85.040 for each rule to
11 implement a determination of a regulatory action specified in section
12 4(1) (b) or (c) of this act.

13 **Sec. 9.** RCW 70.240.040 and 2008 c 288 s 5 are each amended to
14 read as follows:

15 (~~Beginning six months after the department has adopted rules~~
16 ~~under section 8(5) of this act,~~) A manufacturer of a children's
17 product or a consumer product containing a priority chemical subject
18 to a rule adopted to implement a determination made consistent with
19 section 4(1)(b) of this act, or a trade organization on behalf of its
20 member manufacturers, shall provide notice to the department that the
21 manufacturer's product contains a high priority chemical or a
22 priority chemical identified under chapter 70.--- RCW (the new
23 chapter created in section 13 of this act). The notice must be filed
24 annually with the department and must include the following
25 information:

26 (1) The name of the chemical used or produced and its chemical
27 abstracts service registry number;

28 (2) A brief description of the product or product component
29 containing the substance;

30 (3) A description of the function of the chemical in the product;

31 (4) The amount of the chemical used in each unit of the product
32 or product component. The amount may be reported in ranges, rather
33 than the exact amount;

34 (5) The name and address of the manufacturer and the name,
35 address, and phone number of a contact person for the manufacturer;
36 and

37 (6) Any other information the manufacturer deems relevant to the
38 appropriate use of the product.

1 **Sec. 10.** RCW 43.21B.110 and 2013 c 291 s 34 are each amended to
2 read as follows:

3 (1) The hearings board shall only have jurisdiction to hear and
4 decide appeals from the following decisions of the department, the
5 director, local conservation districts, the air pollution control
6 boards or authorities as established pursuant to chapter 70.94 RCW,
7 local health departments, the department of natural resources, the
8 department of fish and wildlife, the parks and recreation commission,
9 and authorized public entities described in chapter 79.100 RCW:

10 (a) Civil penalties imposed pursuant to RCW 18.104.155,
11 70.94.431, 70.105.080, 70.107.050, section 7 of this act, 76.09.170,
12 77.55.291, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
13 90.56.310, 90.56.330, and 90.64.102.

14 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
15 43.27A.190, 70.94.211, 70.94.332, 70.105.095, section 7 of this act,
16 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

17 (c) Except as provided in RCW 90.03.210(2), the issuance,
18 modification, or termination of any permit, certificate, or license
19 by the department or any air authority in the exercise of its
20 jurisdiction, including the issuance or termination of a waste
21 disposal permit, the denial of an application for a waste disposal
22 permit, the modification of the conditions or the terms of a waste
23 disposal permit, or a decision to approve or deny an application for
24 a solid waste permit exemption under RCW 70.95.300.

25 (d) Decisions of local health departments regarding the grant or
26 denial of solid waste permits pursuant to chapter 70.95 RCW.

27 (e) Decisions of local health departments regarding the issuance
28 and enforcement of permits to use or dispose of biosolids under RCW
29 70.95J.080.

30 (f) Decisions of the department regarding waste-derived
31 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
32 decisions of the department regarding waste-derived soil amendments
33 under RCW 70.95.205.

34 (g) Decisions of local conservation districts related to the
35 denial of approval or denial of certification of a dairy nutrient
36 management plan; conditions contained in a plan; application of any
37 dairy nutrient management practices, standards, methods, and
38 technologies to a particular dairy farm; and failure to adhere to the
39 plan review and approval timelines in RCW 90.64.026.

1 (h) Any other decision by the department or an air authority
2 which pursuant to law must be decided as an adjudicative proceeding
3 under chapter 34.05 RCW.

4 (i) Decisions of the department of natural resources, the
5 department of fish and wildlife, and the department that are
6 reviewable under chapter 76.09 RCW, and the department of natural
7 resources' appeals of county, city, or town objections under RCW
8 76.09.050(7).

9 (j) Forest health hazard orders issued by the commissioner of
10 public lands under RCW 76.06.180.

11 (k) Decisions of the department of fish and wildlife to issue,
12 deny, condition, or modify a hydraulic project approval permit under
13 chapter 77.55 RCW.

14 (l) Decisions of the department of natural resources that are
15 reviewable under RCW 78.44.270.

16 (m) Decisions of an authorized public entity under RCW 79.100.010
17 to take temporary possession or custody of a vessel or to contest the
18 amount of reimbursement owed that are reviewable by the hearings
19 board under RCW 79.100.120.

20 (2) The following hearings shall not be conducted by the hearings
21 board:

22 (a) Hearings required by law to be conducted by the shorelines
23 hearings board pursuant to chapter 90.58 RCW.

24 (b) Hearings conducted by the department pursuant to RCW
25 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and
26 90.44.180.

27 (c) Appeals of decisions by the department under RCW 90.03.110
28 and 90.44.220.

29 (d) Hearings conducted by the department to adopt, modify, or
30 repeal rules.

31 (3) Review of rules and regulations adopted by the hearings board
32 shall be subject to review in accordance with the provisions of the
33 administrative procedure act, chapter 34.05 RCW.

34 **Sec. 11.** RCW 34.05.272 and 2014 c 22 s 1 are each amended to
35 read as follows:

36 (1) This section applies only to the water quality and shorelands
37 and environmental assistance programs within the department of
38 ecology and to actions taken by the department of ecology under

1 chapter 70.--- RCW (the new chapter created in section 13 of this
2 act).

3 (2) (a) Before taking a significant agency action, which includes
4 each department of ecology rule to implement a determination of a
5 regulatory action specified in section 4(1) (b) or (c) of this act,
6 the department of ecology must identify the sources of information
7 reviewed and relied upon by the agency in the course of preparing to
8 take significant agency action. Peer-reviewed literature, if
9 applicable, must be identified, as well as any scientific literature
10 or other sources of information used. The department of ecology shall
11 make available on the agency's web site the index of records required
12 under RCW 42.56.070 that are relied upon, or invoked, in support of a
13 proposal for significant agency action.

14 (b) On the agency's web site, the department of ecology must
15 identify and categorize each source of information that is relied
16 upon in the form of a bibliography, citation list, or similar list of
17 sources. The categories in (c) of this subsection do not imply or
18 infer any hierarchy or level of quality.

19 (c) The bibliography, citation list, or similar list of sources
20 must categorize the sources of information as belonging to one or
21 more of the following categories:

22 (i) Independent peer review: Review is overseen by an independent
23 third party;

24 (ii) Internal peer review: Review by staff internal to the
25 department of ecology;

26 (iii) External peer review: Review by persons that are external
27 to and selected by the department of ecology;

28 (iv) Open review: Documented open public review process that is
29 not limited to invited organizations or individuals;

30 (v) Legal and policy document: Documents related to the legal
31 framework for the significant agency action including but not limited
32 to:

33 (A) Federal and state statutes;

34 (B) Court and hearings board decisions;

35 (C) Federal and state administrative rules and regulations; and

36 (D) Policy and regulatory documents adopted by local governments;

37 (vi) Data from primary research, monitoring activities, or other
38 sources, but that has not been incorporated as part of documents
39 reviewed under the processes described in (c) (i), (ii), (iii), and
40 (iv) of this subsection;

1 (vii) Records of the best professional judgment of department of
2 ecology employees or other individuals; or

3 (viii) Other: Sources of information that do not fit into one of
4 the categories identified in this subsection (~~(1)~~) (2)(c).

5 (3) For the purposes of this section, "significant agency action"
6 means an act of the department of ecology that:

7 (a) Results in the development of a significant legislative rule
8 as defined in RCW 34.05.328; or

9 (b) Results in the development of technical guidance, technical
10 assessments, or technical documents that are used to directly support
11 implementation of a state rule or state statute.

12 (4) This section is not intended to affect agency action
13 regarding individual permitting, compliance and enforcement
14 decisions, or guidance provided by an agency to a local government on
15 a case-by-case basis.

16 NEW SECTION. **Sec. 12.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

20 NEW SECTION. **Sec. 13.** Sections 1 through 8 and 14 of this act
21 constitute a new chapter in Title 70 RCW.

22 NEW SECTION. **Sec. 14.** This act may be known and cited as the
23 pollution prevention for healthy people and Puget Sound act."

24 Correct the title.

--- END ---