

# SENATE BILL REPORT

## SB 6315

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As of January 27, 2020

**Title:** An act relating to enforcement of the policies of the department of ecology.

**Brief Description:** Concerning enforcement of the policies of the department of ecology.

**Sponsors:** Senators Holy, Padden, Short, Schoesler, Wagoner and Wilson, L.

**Brief History:**

**Committee Activity:** Environment, Energy & Technology: 1/28/20.

**Brief Summary of Bill**

- Requires the Department of Ecology to adopt, through rulemaking, any interpretive or policy statement or rule, which must be ratified by the Legislature before applying or enforcing the rule.

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### SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

**Staff:** Jan Odano (786-7486)

**Background:** The Administrative Procedures Act (APA) requires agencies to follow certain procedural requirements when proposing and adopting rules of general applicability. The rule making requirements apply to any state department, board, commission, or officer with rule making authority.

Under the APA, a significant legislative rule is defined as a rule that adopts a substantive provision of law, the violation of which results in a penalty or sanction; establishes or revises permit or license requirements; or results in a significant change to a policy or regulatory program. When developing significant legislative rules, certain agencies must determine the costs and benefits; the least burdensome alternatives; coordinate regulations with the requirements of state and federal law; and develop an implementation, evaluation, and education plan. An interpretive statement is an agency's opinion of statutory provisions, the violation of which does not subject a person to a penalty or sanction. Policy statements are written descriptions of the agency's current approach to implementing a statute or other provision of law. The APA encourages agencies to inform the public of current opinions,

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approaches, and likely courses of actions through interpretive or policy statement. Policy and interpretive statements are advisory only.

The Joint Administrative Rules Review Committee (JARRC) is a bipartisan legislative committee that reviews selected proposed and existing agency rules. The JARRC may review whether a rule fits within the legislative intent of the authorizing statute; a rule was adopted in accordance with the law; or a policy, guideline, or interpretative statement is being applied by an agency as a rule.

Any person may petition JARRC for a review of a proposed or existing rule, a proposed or existing policy, or an interpretive statement of general applicability. If JARRC issues an adverse finding on a rule, the agency in question is required to conduct a hearing on the committee's findings. JARRC may recommend that the Governor suspend a rule or that the Legislature repeal or amend the applicable authorizing statute if it finds a rule is not in compliance with the law.

The Department of Ecology (Ecology) is the state's environmental protection agency. The goals of Ecology including protecting and restoring land, air, and water; preventing pollution; promoting healthy communities and natural resources; and delivering efficient and effective services. Ecology's programs include air quality; hazardous waste and toxics reduction; nuclear waste; solid waste management; spill prevention, preparedness, and response; toxics cleanup; and water quality and resources. Ecology also provides assistance through the offices of Columbia River, Chehalis Basin, and Shorelands and Environmental Assistance.

**Summary of Bill:** Beginning July 1, 2020, Ecology is prohibited from applying or enforcing any interpretive statement, policy statement, or rule, unless adopted as a rule in accordance with the APA and expressly ratified through a bill by the Legislature.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on January 24, 2020.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.