

ESHB 2335 - S COMM AMD

By Committee on Government Operations, Tribal Relations & Elections

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that it is
4 critically important that scientific information used to inform public
5 policy be of the highest quality and integrity. Furthermore, the
6 legislature recognizes that public benefit is derived from greater
7 transparency as to what scientific information, data, or records are
8 being used to inform public policy or relied upon in agency decision
9 making.

10 (2) Furthermore, the legislature finds that the state of Washington
11 has not previously adopted a uniform standard for the use of
12 independent peer review by qualified experts, even though the generally
13 accepted approach in the scientific community towards ensuring the
14 quality and integrity of scientific information is the conduct of
15 independent peer review by qualified experts.

16 (3) Therefore, in order to help ensure that agencies routinely use
17 scientifically credible information in conducting their policy-making
18 functions, it is the intent of the legislature to have those sources of
19 scientific information reviewed and relied upon by agencies be
20 identified in a clear and transparent way.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 34.05 RCW
22 to read as follows:

23 (1) Before taking a significant agency action, the department of
24 fish and wildlife and the department of ecology must identify the
25 sources of information reviewed and relied upon by the agency in the
26 course of preparing to take significant agency action. Peer-reviewed
27 literature, if applicable, must be identified, as well as any
28 scientific literature or other sources of information used. The
29 department of fish and wildlife and the department of ecology shall

1 make available on the agency's web site the index of records required
2 under RCW 42.56.070(6) that are relied upon, or invoked, in support of
3 a proposal for significant agency action. Any records relied upon or
4 invoked by the agency in the development of a significant agency action
5 must be made available at the outset of any comment period.

6 (2) As used in this section, the following terms have the following
7 meaning:

8 (a) "Peer-reviewed literature" means information developed using a
9 scientific method for which the following factors are true:

10 (i) The scientific information is provided by a qualified,
11 scientific professional or professionals with issue-appropriate
12 expertise based on the professional's credentials, certifications,
13 earned advanced degrees, years of experience, recognized leadership in
14 an appropriate scholarly area, formal training, and recognized ability
15 to produce peer-reviewed professional literature;

16 (ii) The scientific information has been subjected to independent
17 peer review by reviewers who are qualified and are independent with no
18 conflict of interest. Independent peer review may be performed by
19 reputable scientific journals, scholarly organizations such as the
20 national academies, commissioned by the relevant agency, or
21 commissioned by qualified entities whose interests will be affected by
22 the action;

23 (iii) The methods used to obtain the information are clearly
24 stated, standardized for the pertinent scientific discipline, and are
25 able to be replicated;

26 (iv) The conclusions underlying the information are based on
27 reasonable and logical assumptions supported by other studies and
28 consistent with the data presented;

29 (v) The data underlying the information have been analyzed using
30 the appropriate statistical or quantitative methods;

31 (vi) The information has been placed in a proper context and is
32 appropriately framed with respect to the prevailing body of pertinent
33 scientific knowledge; and

34 (vii) The information is based on assumptions, analytical
35 techniques, and conclusions that are clearly stated and well-referenced
36 with citations to credible literature and other pertinent existing
37 information.

1 (b)(i) "Significant agency action" means an act of the department
2 of fish and wildlife or the department of ecology that:

3 (A) Results in the development of a significant legislative rule as
4 defined in RCW 34.05.328;

5 (B) Results in the development of technical guidance, technical
6 assessments, or technical documents that are used to directly support
7 implementation of a state rule or state statute; or

8 (C) Results in the development of fish and wildlife recovery and
9 management plans.

10 (ii) "Significant agency action" does not include rule making by
11 the department of fish and wildlife associated with fishing and hunting
12 regulations.

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

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17 On page 1, line 2 of the title, after "policy;" strike the
18 remainder of the title and insert "adding a new section to chapter
19 34.05 RCW; and creating a new section."

EFFECT: Clarifies that a "significant agency action" is an act of
the department of fish and wildlife (DFW) or the department of ecology
that: (1) Results in development of a significant legislative rule;
(2) results in development of technical guidance, technical
assessments, or technical documents used to directly support
implementation of a state rule or state statute; or (3) results in
development of fish and wildlife recovery and management plans.
Clarifies that significant agency action does not include rule making
by DFW associated with fishing and hunting regulations. Clarifies that

the act is not intended to affect agency action regarding individual permitting, compliance and enforcement decisions, or guidance provided by an agency to a local government on a case-by-case basis.

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