
SUBSTITUTE HOUSE BILL 1307

State of Washington 62nd Legislature 2011 Regular Session

By House Environment (originally sponsored by Representatives Short, Upthegrove, and McCune)

READ FIRST TIME 02/15/11.

1 AN ACT Relating to standards for the use of science to support
2 public policy; adding new sections to chapter 34.05 RCW; and creating
3 a new section.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that it is
6 critically important that scientific information used to inform public
7 policy be of the highest quality and integrity.

8 (2) The legislature further finds that the scientific information
9 used in support of or in justification for public policy actions in the
10 state of Washington can be of varying quality and integrity.

11 (3) The legislature further finds that a perceived lack of quality
12 and integrity of scientific information is a key factor leading to
13 litigation.

14 (4) The legislature further finds that the generally accepted
15 approach to ensuring the quality and integrity of scientific
16 information is the conduct of independent peer review by qualified
17 experts.

18 (5) The legislature further finds that the state of Washington has

1 not previously adopted a uniform standard for the use of independent
2 peer review by qualified experts.

3 (6) The legislature further finds that the only way to ensure that
4 agencies use scientifically credible information is for all agencies to
5 use the generally accepted practice of peer review.

6 NEW SECTION. **Sec. 2.** The definitions in this section apply
7 throughout sections 3 through 5 of this act unless the context clearly
8 requires otherwise.

9 (1) "Natural resources agency" means the department of natural
10 resources, the department of fish and wildlife, the department of
11 ecology, and the department of agriculture.

12 (2) "Peer reviewed science" means information developed using the
13 scientific method for which the following factors are true:

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

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

27 (c) The methods used to obtain the information are clearly stated,
28 standardized for the pertinent scientific discipline, and are able to
29 be replicated;

30 (d) The conclusions underlying the information are based on
31 reasonable and logical assumptions supported by other studies and
32 consistent with the data presented;

33 (e) The data underlying the information have been analyzed using
34 the appropriate statistical or quantitative methods;

35 (f) The information has been placed in a proper context and is
36 appropriately framed with respect to the prevailing body of pertinent
37 scientific knowledge; and

1 (g) The information is based on assumptions, analytical techniques,
2 and conclusions that are clearly stated and well-referenced with
3 citations to credible literature and other pertinent existing
4 information.

5 (3) "Significant agency action" means an act of a natural resources
6 agency that meets one of the following:

7 (a) Results in substantive requirements for a nonstate actor, the
8 violation of which subjects the violator to penalty or sanction;

9 (b) Establishes, alters, or revokes any qualification or standard
10 for the issuance, suspension, or revocation of a license or permit; or

11 (c) Results in significant amendments to an existing policy or
12 program.

13 NEW SECTION. **Sec. 3.** (1) Except as provided in section 5 of this
14 act, all natural resources agencies are required to demonstrate the use
15 of peer reviewed science before or simultaneous with taking a
16 significant agency action.

17 (2) The use of peer reviewed science must be evidenced by the
18 creation and maintenance of a public record that identifies:

19 (a) The scientific literature or other sources relied upon by the
20 natural resources agency; and

21 (b) Any scientific information reviewed by the natural resources
22 agency that does not meet the definition of peer reviewed science,
23 which must be accompanied by a narrative explanation of why that
24 information was or was not included.

25 NEW SECTION. **Sec. 4.** (1) Scientific studies may be brought
26 forward for consideration in support of a significant natural resources
27 agency action under section 3 of this act by a participating
28 governmental entity, academic institution, qualified participating
29 stakeholder group, or participating individual. These studies must be
30 demonstrated to meet the requirements of peer reviewed science prior to
31 being relied upon by a natural resources agency.

32 (2) For scientific studies where the information has not been
33 critically reviewed by other persons with qualified, relevant
34 scientific expertise, the natural resources agency implementing the
35 provisions of section 3 of this act shall obtain and document fully

1 independent, rigorous peer review by other persons with qualified,
2 relevant scientific expertise.

3 (3) Reviews conducted in compliance with this section may not be
4 performed by an employee of the natural resources agency responsible
5 for the provisions or enforcement of the significant agency action
6 informed by the science being reviewed or an employee of or an
7 affiliate of the entity that performed or helped fund the science being
8 reviewed.

9 NEW SECTION. **Sec. 5.** (1) A natural resources agency may proceed
10 with interim significant agency actions without fulfilling the
11 requirement for documenting the use of peer reviewed science under
12 section 3 of this act if:

13 (a) The natural resources agency is responding to an emergency
14 critical need or event imminently affecting public health or safety or
15 critical public infrastructure; and

16 (b) There is a lack of peer reviewed science available or
17 insufficient time to access the peer reviewed science without further
18 exacerbating the emergency critical need.

19 (2) Any agency action made using the provisions of subsection (1)
20 of this section is interim in nature and is strictly limited in scope
21 and effect to address the imminent emergency critical need until the
22 necessary peer reviewed science is either collected and documented, or
23 generated, so as to comply with the provisions of section 3 of this
24 act.

25 NEW SECTION. **Sec. 6.** Sections 2 through 5 of this act are each
26 added to chapter 34.05 RCW and codified with the subchapter heading of
27 standards for the use of science to support public policy.

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