

FINAL BILL REPORT

SHB 2261

C 21 L 14
Synopsis as Enacted

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

Sponsors: House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Short, Fagan and Magendanz).

House Committee on Agriculture & Natural Resources
Senate Committee on Natural Resources & Parks

Background:

The Washington Department of Fish and Wildlife (WDFW) is charged with maximizing fishing, hunting, and outdoor recreation activities for people, while maintaining healthy and diverse fish and wildlife populations. In conjunction with these duties, the WDFW is responsible for adopting rules for the management of hunting and fishing. The WDFW is also involved in the development of recovery plans for threatened and endangered fish and wildlife species under state law and the federal Endangered Species Act.

The Administrative Procedure Act establishes the rule-making process for state agencies and outlines the procedural requirements for appealing an agency action. The 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 requiring the WDFW to identify, before taking a significant agency action, peer-reviewed science, scientific literature, and other sources relied upon. On its website, the WDFW 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 defines the term "significant agency action" as an act of the WDFW 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; (4) results in the development of fish and wildlife recovery plans; or (5) results in the development of

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technical guidance, assessments, or documents used to implement a state rule or statute. Rule-making by the WDFW associated with fishing or hunting rules is not a significant agency action.

Summary:

On its website, the WDFW 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 WDFW as belonging to one of the following categories:

- independently peer-reviewed by a third party;
- internally peer-reviewed by the WDFW staff;
- externally peer-reviewed by WDFW-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 WDFW 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 WDFW 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