
SENATE BILL 5958

State of Washington 65th Legislature 2017 2nd Special Session

By Senators Short, Takko, Pearson, Hobbs, Warnick, Cleveland, Brown, Mullet, and Ericksen

Read first time 06/16/17. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to expanding the operable intent of RCW 34.05.271
2 and 34.05.272 to the significant agency actions of the department of
3 natural resources; adding a new section to chapter 34.05 RCW; and
4 creating a new section.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 34.05
7 RCW to read as follows:

8 (1)(a) Before taking a significant agency action, the department
9 of natural resources must identify the sources of information
10 reviewed and relied upon by the agency in the course of preparing to
11 take significant agency action. Peer-reviewed literature, if
12 applicable, must be identified, as well as any scientific literature
13 or other sources of information used. The department of natural
14 resources shall make available on the agency's web site the index of
15 records required under RCW 42.56.070 that are relied upon, or
16 invoked, in support of a proposal for significant agency action.

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

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

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

6 (ii) Internal peer review: Review by staff internal to the
7 department of natural resources;

8 (iii) External peer review: Review by persons that are external
9 to and selected by the department of natural resources;

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

12 (v) Legal and policy document: Documents related to the legal
13 framework for the significant agency action including but not limited
14 to:

15 (A) Federal and state statutes;

16 (B) Court and hearings board decisions;

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

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

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

23 (vii) Records of the best professional judgment of department of
24 natural resources employees or other individuals; or

25 (viii) Other: Sources of information that do not fit into one of
26 the categories identified in this subsection (1)(c).

27 (2) This section does not apply to purely proprietary decisions
28 of the department of natural resources and is not intended to affect
29 agency action regarding:

30 (a) Individual permitting, leasing, or sales of valuable
31 materials;

32 (b) Compliance and enforcement decisions; or

33 (c) Guidance provided by the agency to a local government on a
34 case-by-case basis.

35 (3) The definitions in this subsection apply throughout this
36 section unless the context clearly requires otherwise.

37 (a) "Department of natural resources" means the agency created in
38 chapter 43.30 RCW and includes the office of the commissioner of
39 public lands and rule-making bodies housed within the department of

1 natural resources, including the board of natural resources and the
2 forest practices board.

3 (b) "Significant agency action" means an act of the department of
4 natural resources that:

5 (i) Results in the development of a significant legislative rule
6 as defined in RCW 34.05.328; or

7 (ii) Results in the development of technical guidance, technical
8 assessments, or technical documents that are used to directly support
9 implementation of a state rule or state statute; and

10 (iii) Results in the development of natural resource recovery
11 plans.

12 NEW SECTION. **Sec. 2.** The legislature reaffirms the findings
13 stated in section 1, chapter 68, Laws of 2013 and extends those same
14 findings to this act.

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