
SENATE BILL 5241

State of Washington

66th Legislature

2019 Regular Session

By Senators Short, Takko, Brown, and Mullet

1 AN ACT Relating to expanding the operable intent of RCW 34.05.271
2 and 34.05.272 to certain activities of natural resources agencies;
3 adding new sections to chapter 34.05 RCW; and creating 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
7 public policy be of the highest quality and integrity. Furthermore,
8 the legislature recognizes that a public benefit is derived from
9 greater transparency as to what scientific information, data, or
10 records are being used to inform public policy or relied upon in
11 agency decision making.

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

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

19 (1)(a) Before enacting a significant legislative rule as defined
20 in RCW 34.05.328, giving final approval to technical guidance

1 documents, or finalizing habitat conservation plans, the department
2 of natural resources, as configured under RCW 43.30.030, must
3 identify the sources of scientific information reviewed and relied
4 upon by the agency in the course of preparing to take the activity.
5 Peer-reviewed literature, if applicable, must be identified, as well
6 as any other relevant scientific literature or other sources of
7 information used, consistent with this section. The department of
8 natural resources shall make available on the agency's web site,
9 consistent with this section, the index of records required under RCW
10 42.56.070 that are relied upon, or invoked, in support of a proposal
11 for the activity.

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

17 (c) The bibliography, citation list, or similar list of
18 scientific sources must categorize the sources of information as
19 belonging to one or more of the following categories:

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

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

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

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

28 (v) Legal and policy document: Documents immediately related to
29 the legal framework for the activity, including but not limited to:

30 (A) Federal and state statutes;

31 (B) Court and hearings board decisions;

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

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

34 (vi) Scientific data from primary research, monitoring
35 activities, or other sources, that has not otherwise been
36 incorporated as part of documents presented under this subsection;

37 (vii) Records of the best professional judgment of agency
38 employees or other individuals; or

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

1 (2) This section does not apply to purely proprietary decisions
2 of the department of natural resources.

3 (3) Nothing in this section creates an independent cause of
4 action to invalidate an otherwise valid action of the department of
5 natural resources completed consistent with state law.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 34.05
7 RCW to read as follows:

8 (1)(a) Before enacting a significant legislative rule as defined
9 in RCW 34.05.328, or giving final approval to technical guidance
10 documents, the forest practices board created under RCW 76.09.030
11 must identify the sources of scientific information reviewed and
12 relied upon by the board in the course of preparing to take the
13 activity. Peer-reviewed literature, if applicable, must be
14 identified, as well as any other relevant scientific literature or
15 other sources of information used, consistent with this section. The
16 forest practices board shall make available on the board's web site,
17 consistent with this section, the index of records required under RCW
18 42.56.070 that are relied upon, or invoked, in support of a proposal
19 for the activity.

20 (b) On the board's web site, the forest practices board must
21 identify and categorize each source of scientific information that is
22 relied upon in the form of a bibliography, citation list, or similar
23 list of sources. The categories in (c) of this subsection do not
24 imply or infer any hierarchy or level of quality.

25 (c) The bibliography, citation list, or similar list of
26 scientific sources must categorize the sources of information as
27 belonging to one or more of the following categories:

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

30 (ii) Internal peer review: Review by staff internal to the forest
31 practices board;

32 (iii) External peer review: Review by persons that are external
33 to and selected by the forest practices board;

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

36 (v) Adaptive management: Documents generated and reviewed by
37 official participants of the adaptive management process under RCW
38 76.09.370(6);

1 (vi) Legal and policy document: Documents immediately related to
2 the legal framework for the activity, including but not limited to:
3 (A) Federal and state statutes;
4 (B) Court and hearings board decisions;
5 (C) Federal regulations and state administrative rules; and
6 (D) Policy and regulatory documents adopted by local governments;
7 (vii) Scientific data from primary research, monitoring
8 activities, or other sources, that has not otherwise been
9 incorporated as part of documents presented under this subsection;
10 (viii) Records of the best professional judgment of forest
11 practices board employees or other individuals; or
12 (ix) Other: Sources of relevant information that do not fit into
13 one of the categories identified in this subsection (1)(c).
14 (2) Nothing in this section creates an independent cause of
15 action to invalidate an otherwise valid action of the forest
16 practices board completed consistent with state law.

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