
SUBSTITUTE HOUSE BILL 2261

State of Washington 63rd Legislature 2014 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Short, Fagan, and Magendanz)

READ FIRST TIME 02/04/14.

1 AN ACT Relating to the use of science to support significant agency
2 actions; and amending RCW 34.05.271.

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

4 **Sec. 1.** RCW 34.05.271 and 2013 c 68 s 2 are each amended to read
5 as follows:

6 (1)(a) Before taking a significant agency action, the department of
7 fish and wildlife must identify the sources of information reviewed and
8 relied upon by the agency in the course of preparing to take
9 significant agency action. Peer-reviewed literature, if applicable,
10 must be identified, as well as any scientific literature or other
11 sources of information used. The department of fish and wildlife shall
12 make available on the agency's web site the index of records required
13 under RCW 42.56.070(~~(+6)~~) that are relied upon, or invoked, in support
14 of a proposal for significant agency action.

15 (b) On the agency's web site, the department of fish and wildlife
16 must identify and categorize each source of information that is relied
17 upon in the form of a bibliography, citation list, or similar list of
18 sources. The categories in (c) of this subsection do not imply or
19 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 more
3 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 fish and wildlife;

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

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 and state administrative rules and regulations; 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 (iv)
22 of this subsection;

23 (vii) Records of the best professional judgment of department of
24 fish and wildlife 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)(a) For the purposes of this section, "significant agency
28 action" means an act of the department of fish and wildlife that:

29 (i) Results in the development of a significant legislative rule as
30 defined in RCW 34.05.328;

31 (ii) Results in the development of technical guidance, technical
32 assessments, or technical documents that are used to directly support
33 implementation of a state rule or state statute; or

34 (iii) Results in the development of fish and wildlife recovery
35 plans.

36 (b) "Significant agency action" does not include rule making by the
37 department of fish and wildlife associated with fishing and hunting
38 rules.

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

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