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**SENATE BILL 5958**

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**State of Washington 65th Legislature 2017 2nd Special Session**

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

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

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

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

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

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

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

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

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

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

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

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

(A) Federal and state statutes;

(B) Court and hearings board decisions;

(C) Federal regulations and state administrative rules; and

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

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

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

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

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

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

(b) Compliance and enforcement decisions; or

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

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

(a) "Department of natural resources" means the agency created in chapter 43.30 RCW and includes the office of the commissioner of public lands and rule-making bodies housed within the department of natural resources, including the board of natural resources and the forest practices board.

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

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

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

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

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

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