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**SENATE BILL 5241**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Short, Takko, Brown, and Mullet

AN ACT Relating to expanding the operable intent of RCW 34.05.271 and 34.05.272 to certain activities of natural resources agencies; adding new sections to chapter 34.05 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  (1) The legislature finds that it is critically important that scientific information used to inform public policy be of the highest quality and integrity. Furthermore, the legislature recognizes that a public benefit is derived from greater transparency as to what scientific information, data, or records are being used to inform public policy or relied upon in agency decision making.

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

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

(1)(a) Before enacting a significant legislative rule as defined in RCW 34.05.328, giving final approval to technical guidance documents, or finalizing habitat conservation plans, the department of natural resources, as configured under RCW 43.30.030, must identify the sources of scientific information reviewed and relied upon by the agency in the course of preparing to take the activity. Peer-reviewed literature, if applicable, must be identified, as well as any other relevant scientific literature or other sources of information used, consistent with this section. The department of natural resources shall make available on the agency's web site, consistent with this section, the index of records required under RCW 42.56.070 that are relied upon, or invoked, in support of a proposal for the activity.

(b) On the agency's web site, the department of natural resources must identify and categorize each source of scientific 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 scientific 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 immediately related to the legal framework for the activity, 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) Scientific data from primary research, monitoring activities, or other sources, that has not otherwise been incorporated as part of documents presented under this subsection;

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

(viii) Other: Sources of relevant 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.

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

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

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

(b) On the board's web site, the forest practices board must identify and categorize each source of scientific 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 scientific 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 forest practices board;

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

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

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

(vi) Legal and policy document: Documents immediately related to the legal framework for the activity, 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;

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

(viii) Records of the best professional judgment of forest practices board employees or other individuals; or

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

(2) Nothing in this section creates an independent cause of action to invalidate an otherwise valid action of the forest practices board completed consistent with state law.

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