

Rep. AKG Brief, Formally Defining “Best Available Science,” HB 2020

On April 20, 2010, the largest offshore oil spill in the United States occurred, exacerbating the effects of previous natural disasters. Oil flowed unchecked for three months. The cause was an explosion of the Deepwater Horizon, an oil rig drilling in the Gulf of Mexico. Before the well was capped, millions of barrels of crude oil were released, closing tens of thousands of square miles of federal waters to fishing, and causing extensive damage to marine and wildlife habitats, and tourism.

On July 6, 2012, the President signed into law the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act (RESTORE Act; Subtitle F of Public Law 112-141) . The Act established the Gulf Coast Restoration Trust Fund in the U.S. Treasury Department. Under the Act, amounts in the Trust Fund will be available for programs, projects, and activities that restore and protect the environment and economy of the Gulf Coast region.

The US Department of the Treasury is responsible for issuing compliance and auditing procedures for the entire Act and procedures for two grant programs administered by Treasury. Disbursements to recovery projects are conducted in accordance with best available science, which is defined in the language of the RESTORE Act.

SEC. 1603. GULF COAST NATURAL RESOURCES RESTORATION AND ECONOMIC RECOVERY.

Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended—

(1) in subsection (a)—

(A) in paragraph (25)(B), by striking “and” at the end;

(B) in paragraph (26)(D), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(27) the term ‘best available science’ means science that—

“(A) maximizes the quality, objectivity, and integrity of information, including statistical information;

“(B) uses peer-reviewed and publicly available data; and

“(C) clearly documents and communicates risks and uncertainties in the scientific basis for such projects; ”

In order to carry this definition forward to HB 2020 we amended only item (C) to read,

(C) clearly documents and communicates risks and uncertainties in the scientific citations.”

We regard this definition to be suitable for Oregon legislation since it has been employed by Congress and the Treasury Department since 2012 as non-partisan criteria for distributing public funds in the public interest.