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SENATE BILL 5733

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State of Washington                      53rd Legislature                      1993 Regular Session

By Senators Fraser and Spanel

Read first time 02/10/93. Referred to Committee on Natural Resources.

1            AN ACT Relating to forest practice applications for activities  
2 within urban growth management areas; and amending RCW 76.09.050.

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

4            **Sec. 1.** RCW 76.09.050 and 1990 1st ex.s. c 17 s 61 are each  
5 amended to read as follows:

6            (1) The board shall establish by rule which forest practices shall  
7 be included within each of the following classes:

8            Class I: Minimal or specific forest practices that have no direct  
9 potential for damaging a public resource that may be conducted without  
10 submitting an application or a notification;

11            Class II: Forest practices which have a less than ordinary  
12 potential for damaging a public resource that may be conducted without  
13 submitting an application and may begin five calendar days, or such  
14 lesser time as the department may determine, after written notification  
15 by the operator, in the manner, content, and form as prescribed by the  
16 department, is received by the department. Class II shall not include  
17 forest practices:

18            (a) On lands platted after January 1, 1960, or being converted to  
19 another use;

1 (b) Which require approvals under the provisions of the hydraulics  
2 act, RCW 75.20.100;

3 (c) Within "shorelines of the state" as defined in RCW 90.58.030;  
4 or

5 (d) Excluded from Class II by the board;

6 Class III: Forest practices other than those contained in Class I,  
7 II, or IV. A Class III application must be approved or disapproved by  
8 the department within thirty calendar days from the date the department  
9 receives the application;

10 Class IV: Forest practices other than those contained in Class I  
11 or II: (a) On lands platted after January 1, 1960, (b) on lands being  
12 converted to another use, (c) on lands which, pursuant to RCW 76.09.070  
13 as now or hereafter amended, are not to be reforested because of the  
14 likelihood of future conversion to urban development, and/or (d) which  
15 have a potential for a substantial impact on the environment and  
16 therefore require an evaluation by the department as to whether or not  
17 a detailed statement must be prepared pursuant to the state  
18 environmental policy act, chapter 43.21C RCW. Such evaluation shall be  
19 made within ten days from the date the department receives the  
20 application: PROVIDED, That nothing herein shall be construed to  
21 prevent any local or regional governmental entity from determining that  
22 a detailed statement must be prepared for an action pursuant to a Class  
23 IV forest practice taken by that governmental entity concerning the  
24 land on which forest practices will be conducted. A Class IV  
25 application must be approved or disapproved by the department within  
26 thirty calendar days from the date the department receives the  
27 application, unless the department determines that a detailed statement  
28 must be made, in which case the application must be approved or  
29 disapproved by the department within sixty calendar days from the date  
30 the department receives the application, unless the commissioner of  
31 public lands, through the promulgation of a formal order, determines  
32 that the process cannot be completed within such period.

33 Forest practices under Classes I, II, and III are exempt from the  
34 requirements for preparation of a detailed statement under the state  
35 environmental policy act.

36 (2) No Class II, Class III, or Class IV forest practice shall be  
37 commenced or continued after January 1, 1975, unless the department has  
38 received a notification with regard to a Class II forest practice or  
39 approved an application with regard to a Class III or Class IV forest

1 practice containing all information required by RCW 76.09.060 as now or  
2 hereafter amended: PROVIDED, That any person commencing a forest  
3 practice during 1974 may continue such forest practice until April 1,  
4 1975, if such person has submitted an application to the department  
5 prior to January 1, 1975: PROVIDED, FURTHER, That in the event forest  
6 practices regulations necessary for the scheduled implementation of  
7 this chapter and RCW 90.48.420 have not been adopted in time to meet  
8 such schedules, the department shall have the authority to regulate  
9 forest practices and approve applications on such terms and conditions  
10 consistent with this chapter and RCW 90.48.420 and the purposes and  
11 policies of RCW 76.09.010 until applicable forest practices regulations  
12 are in effect.

13 (3) If a notification or application is delivered in person to the  
14 department by the operator or his agent, the department shall  
15 immediately provide a dated receipt thereof. In all other cases, the  
16 department shall immediately mail a dated receipt to the operator.

17 (4) Forest practices shall be conducted in accordance with the  
18 forest practices regulations, orders and directives as authorized by  
19 this chapter or the forest practices regulations, and the terms and  
20 conditions of any approved applications.

21 (5) The department of natural resources shall notify the applicant  
22 in writing of either its approval of the application or its disapproval  
23 of the application and the specific manner in which the application  
24 fails to comply with the provisions of this section or with the forest  
25 practices regulations. Except as provided otherwise in this section,  
26 if the department fails to either approve or disapprove an application  
27 or any portion thereof within the applicable time limit, the  
28 application shall be deemed approved and the operation may be  
29 commenced: PROVIDED, That this provision shall not apply to  
30 applications which are neither approved nor disapproved pursuant to the  
31 provisions of subsection ~~((7))~~ (8) of this section: PROVIDED,  
32 FURTHER, That if seasonal field conditions prevent the department from  
33 being able to properly evaluate the application, the department may  
34 issue an approval conditional upon further review within sixty days:  
35 PROVIDED, FURTHER, That the department shall have until April 1, 1975,  
36 to approve or disapprove an application involving forest practices  
37 allowed to continue to April 1, 1975, under the provisions of  
38 subsection (2) of this section. Upon receipt of any notification or  
39 any satisfactorily completed application the department shall in any

1 event no later than two business days after such receipt transmit a  
2 copy to the departments of ecology, wildlife, and fisheries, and to the  
3 county, city, or town in whose jurisdiction the forest practice is to  
4 be commenced. Any comments by such agencies shall be directed to the  
5 department of natural resources.

6 (6) If the county, city, or town believes that an application is  
7 inconsistent with this chapter, the forest practices regulations, or  
8 any local authority consistent with RCW 76.09.240 as now or hereafter  
9 amended, it may so notify the department and the applicant, specifying  
10 its objections.

11 (7) The department may not approve a Class III application covering  
12 any land lying within an urban growth management area established under  
13 RCW 36.70A.110.

14 (8) The department shall not approve portions of applications to  
15 which a county, city, or town objects if:

16 (a) The department receives written notice from the county, city,  
17 or town of such objections within fourteen business days from the time  
18 of transmittal of the application to the county, city, or town, or one  
19 day before the department acts on the application, whichever is later;  
20 and

21 (b) The objections relate to lands either:

22 (i) Platted after January 1, 1960; or

23 (ii) Being converted to another use.

24 The department shall either disapprove those portions of such  
25 application or appeal the county, city, or town objections to the  
26 appeals board. If the objections related to subparagraphs (b) (i) and  
27 (ii) of this subsection are based on local authority consistent with  
28 RCW 76.09.240 as now or hereafter amended, the department shall  
29 disapprove the application until such time as the county, city, or town  
30 consents to its approval or such disapproval is reversed on appeal.  
31 The applicant shall be a party to all department appeals of county,  
32 city, or town objections. Unless the county, city, or town either  
33 consents or has waived its rights under this subsection, the department  
34 shall not approve portions of an application affecting such lands until  
35 the minimum time for county, city, or town objections has expired.

36 ~~((+8))~~ (9) In addition to any rights under ~~((the above paragraph))~~  
37 subsection (8) of this section, the county, city, or town may appeal  
38 any department approval of an application with respect to any lands  
39 within its jurisdiction. The appeals board may suspend the

1 department's approval in whole or in part pending such appeal where  
2 there exists potential for immediate and material damage to a public  
3 resource.

4 ~~((9))~~ (10) Appeals under this section shall be made to the  
5 appeals board in the manner and time provided in RCW 76.09.220(8). In  
6 such appeals there shall be no presumption of correctness of either the  
7 county, city, or town or the department position.

8 ~~((10))~~ (11) The department shall, within four business days  
9 notify the county, city, or town of all notifications, approvals, and  
10 disapprovals of an application affecting lands within the county, city,  
11 or town, except to the extent the county, city, or town has waived its  
12 right to such notice.

13 ~~((11))~~ (12) A county, city, or town may waive in whole or in part  
14 its rights under this section, and may withdraw or modify any such  
15 waiver, at any time by written notice to the department.

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