

SENATE BILL REPORT

SHB 2444

As Reported By Senate Committee On:
Natural Resources, February 23, 1996

Title: An act relating to habitat conservation plans.

Brief Description: Amending the forest practice act of 1974 regarding federally approved habitat conservation plans.

Sponsors: House Committee on Natural Resources (originally sponsored by Representatives Brumsickle, Chappell, Buck, Cairnes, Sheldon, Honeyford, McMorris, Morris, Kessler, Delvin, Basich, Fuhrman, Regala, Schoesler, Mastin, Elliot, Johnson, D. Sommers, Boldt, Thompson and McMahan).

Brief History:

Committee Activity: Natural Resources: 2/22/96, 2/23/96 [DPA].

SENATE COMMITTEE ON NATURAL RESOURCES

Majority Report: Do pass as amended.

Signed by Senators Drew, Chair; Spanel, Vice Chair; A. Anderson, Haugen, Oke, Snyder and Swecker.

Staff: Vic Moon (786-7469)

Background: A habitat conservation plan (HCP) is a long-range planning effort authorized under the Federal Endangered Species Act (ESA). Development of an HCP offers an applicant an avenue around the ESA's general prohibition on the "taking" of species listed under the act as endangered or threatened. The idea behind this alternative avenue is that it may be acceptable under the ESA to allow activities that harm an individual member of a listed species as long as a comprehensive long-range management strategy for the property conserves the species as a whole. A landowner initiates development of an HCP, chooses the species to include, and negotiates for approval of the plan with the U.S. Fish and Wildlife Service or, in the case of anadromous fish, the National Marine Fisheries Service.

A provision in the state's forest practices rules provides a special break from certain state requirements for lands covered by an approved HCP. Current law directs the state Forest Practices Board to establish by rule which forest practices should be included in each of four classes. Class IV has a subset called "Class IV - Special." These are forest practices that have potential for a substantial impact on the environment. Applications for Class IV - Special forest practices require completion of an environmental checklist under the State Environmental Policy Act and may require completion of the more detailed environmental impact statement. One element that can trigger the designation of a forest practice as a Class IV - Special is a forest practice proposed on lands designated as critical wildlife habitat (a state designation) or critical habitat (a federal designation) for a threatened or endangered species. However, the current forest practices rules provide that forest practices on lands

covered by an approved HCP are not critical wildlife habitats or critical habitats for that species, as long as the species is included in the HCP.

Currently, one landowner in the state (Murray Pacific Corporation) has an approved HCP.

The Forest Practices Board has a draft rule package out for public comment which expands the current HCP rule to include other ESA-related agreements. The board anticipates adopting final rules in May.

Both the current and the proposed HCP-related forest practices rules apply to lands covered by any approved HCP.

Summary of Amended Bill: A new section is added to the forest practices statutes specifically addressing forest practices that are consistent with an approved habitat conservation plan. Such practices are exempt from state forest practices rules and policies adopted primarily for the protection of one or more species covered by the HCP, provided that the proposed forest practices are in compliance with the approved plan.

This new provision applies only to HCPs approved on or before the effective date of this proposed legislation and the bill has an emergency clause. The rulemaking authority of the Forest Practices Board is not limited by this new provision.

Amended Bill Compared to Substitute Bill: The SEPA exemption is clarified and an emergency clause is added.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: The timber/fish/wildlife working group agrees with this bill of limited application. The Murray Pacific Corporation needs the bill to give them certainty in forest practice rule application.

The bill should apply to all companies which are developing HCP plans, but this is a step in the right direction.

Testimony Against: None.

Testified: PRO: Tim Boyd, WA Forest Protection Assoc.; Ron Schultz, Audubon Society; Judith Freeman, Dept. of Fish and Wildlife; John Edwards, DNR; Scott Swanson, Murray Pacific; Jerry Harper, Murray Pacific; Steve Gano, Plum Creek Timber.