
HOUSE BILL 2747

State of Washington 54th Legislature 1996 Regular Session

By Representatives Mastin, Reams, Silver and Johnson

Read first time 01/18/96. Referred to Committee on Government Operations.

1 AN ACT Relating to regulatory reform; amending RCW 76.09.010,
2 76.09.040, 48.02.060, 48.44.050, 48.46.200, 34.05.328, 34.05.570,
3 4.84.350, 4.84.340, and 34.05.542; adding a new section to chapter
4 43.22 RCW; and adding a new section to chapter 4.84 RCW.

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

6 **Sec. 1.** RCW 76.09.010 and 1993 c 443 s 1 are each amended to read
7 as follows:

8 (1) The legislature hereby finds and declares that the forest land
9 resources are among the most valuable of all resources in the state;
10 that a viable forest products industry is of prime importance to the
11 state's economy; that it is in the public interest for public and
12 private commercial forest lands to be managed consistent with sound
13 policies of natural resource protection; that coincident with
14 maintenance of a viable forest products industry, it is important to
15 afford protection to forest soils, fisheries, wildlife, water quantity
16 and quality, air quality, recreation, and scenic beauty.

17 (2) The legislature further finds and declares it to be in the
18 public interest of this state to create and maintain through the
19 adoption of this chapter a comprehensive state-wide system of laws and

1 forest practices regulations which will achieve the following purposes
2 and policies:

3 (a) Afford protection to, promote, foster and encourage timber
4 growth, and require such minimum reforestation of commercial tree
5 species on forest lands as will reasonably utilize the timber growing
6 capacity of the soil following current timber harvest;

7 (b) Afford protection to forest soils and public resources by
8 utilizing all reasonable methods of technology in conducting forest
9 practices;

10 (c) Recognize both the public and private interest in the
11 profitable growing and harvesting of timber;

12 (d) Promote efficiency by permitting maximum operating freedom
13 consistent with the other purposes and policies stated herein;

14 (e) Provide for regulation of forest practices so as to avoid
15 unnecessary duplication in such regulation;

16 (f) Provide for interagency input and intergovernmental and tribal
17 coordination and cooperation;

18 (g) Achieve compliance with all applicable requirements of federal
19 and state law with respect to nonpoint sources of water pollution from
20 forest practices;

21 (h) To consider reasonable land use planning goals and concepts
22 contained in local comprehensive plans and zoning regulations; and

23 (i) Foster cooperation among managers of public resources, forest
24 landowners, Indian tribes and the citizens of the state.

25 The authority of the board to adopt forest practices rules is
26 prescribed by this subsection (2) and RCW 76.09.040. The board may not
27 adopt forest practices rules based solely on any other section of law
28 stating a statute's intent or purpose, on the enabling provisions of
29 the statute establishing the agency, or on any combination of such
30 provisions.

31 (3) The legislature further finds and declares that it is also in
32 the public interest of the state to encourage forest landowners to
33 undertake corrective and remedial action to reduce the impact of mass
34 earth movements and fluvial processes.

35 (4) The legislature further finds and declares that it is in the
36 public interest that the applicants for state forest practice permits
37 should assist in paying for the cost of review and permitting necessary
38 for the environmental protection of these resources.

1 **Sec. 2.** RCW 76.09.040 and 1994 c 264 s 48 are each amended to read
2 as follows:

3 (1) Where necessary to accomplish the purposes and policies
4 specifically stated in RCW 76.09.010(2), and to implement the
5 provisions of this chapter, the board shall (~~(promulgate)~~) adopt forest
6 practices (~~(regulations)~~) rules pursuant to chapter 34.05 RCW and in
7 accordance with the procedures enumerated in this section that:

8 (a) Establish minimum standards for forest practices;

9 (b) Provide procedures for the voluntary development of resource
10 management plans which may be adopted as an alternative to the minimum
11 standards in (a) of this subsection if the plan is consistent with the
12 purposes and policies specifically stated in RCW 76.09.010(2) and the
13 plan meets or exceeds the objectives of the minimum standards;

14 (c) Set forth necessary administrative provisions; and

15 (d) Establish procedures for the collection and administration of
16 forest practice fees as set forth by this chapter.

17 Forest practices (~~(regulations)~~) rules pertaining to water quality
18 protection shall be (~~(promulgated)~~) adopted individually by the board
19 and by the department of ecology after they have reached agreement with
20 respect thereto. All other forest practices (~~(regulations)~~) rules
21 shall be (~~(promulgated)~~) adopted by the board.

22 Forest practices (~~(regulations)~~) rules shall be administered and
23 enforced by the department except as otherwise provided in this
24 chapter. Such (~~(regulations)~~) rules shall be (~~(promulgated)~~) adopted
25 and administered so as to give consideration to all purposes and
26 policies specifically set forth in RCW 76.09.010(2).

27 (~~((+2))~~) (3) The board shall prepare proposed forest practices
28 (~~(regulations)~~) rules. In addition to any forest practices
29 (~~(regulations)~~) rules relating to water quality protection proposed by
30 the board, the department of ecology shall prepare proposed forest
31 practices (~~(regulations)~~) rules relating to water quality protection.

32 Prior to initiating the rule making process, the proposed
33 (~~(regulations)~~) rules shall be submitted for review and comments to the
34 department of fish and wildlife and to the counties of the state.
35 After receipt of the proposed forest practices (~~(regulations)~~) rules,
36 the department of fish and wildlife and the counties of the state shall
37 have thirty days in which to review and submit comments to the board,
38 and to the department of ecology with respect to its proposed
39 (~~(regulations)~~) rules relating to water quality protection. After the

1 expiration of such thirty day period the board and the department of
2 ecology shall jointly hold one or more hearings on the proposed
3 ((regulations)) rules pursuant to chapter 34.05 RCW. At such
4 hearing(s) any county may propose specific forest practices
5 ((regulations)) rules relating to problems existing within such county.
6 The board and the department of ecology may adopt such proposals if
7 they find the proposals are consistent with the purposes and policies
8 of this chapter.

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.22 RCW
10 to read as follows:

11 For rules adopted after the effective date of this section, the
12 director of the department of labor and industries may not rely solely
13 on a statute's statement of intent or purpose, on the enabling
14 provisions of the statute establishing the agency, or on any
15 combination of such provisions, for statutory authority to adopt any
16 rule: PROVIDED, That this section shall not apply to rules adopted
17 pursuant to chapter 39.12 RCW. It is the intent of the legislature to
18 retain the status quo and that the provisions of chapter . . . , Laws of
19 1996 (this act) shall neither explicitly or impliedly diminish nor
20 expand the rule-making authority of the department under chapter 39.12
21 RCW.

22 **Sec. 4.** RCW 48.02.060 and 1947 c 79 s .02.06 are each amended to
23 read as follows:

24 (1) The commissioner shall have the authority expressly conferred
25 upon him or her by or reasonably implied from the provisions of this
26 code.

27 (2) The commissioner shall execute his or her duties and shall
28 enforce the provisions of this code.

29 (3) The commissioner may:

30 (a) Make reasonable rules and regulations for effectuating any
31 provision of this code, except those relating to his or her election,
32 qualifications, or compensation: PROVIDED, That the commissioner may
33 not adopt rules after the effective date of this section that are based
34 solely on this statute, or on a statute's statement of intent or
35 purpose, or on the enabling provisions of the statute establishing the
36 agency, or any combination of such provisions, for statutory authority
37 to adopt any rule, except rules defining or clarifying terms in, or

1 procedures necessary to the implementation of a statute. No such rules
2 and regulations shall be effective prior to their being filed for
3 public inspection in the commissioner's office.

4 (b) Conduct investigations to determine whether any person has
5 violated any provision of this code.

6 (c) Conduct examinations, investigations, hearings, in addition to
7 those specifically provided for, useful and proper for the efficient
8 administration of any provision of this code.

9 **Sec. 5.** RCW 48.44.050 and 1947 c 268 s 5 are each amended to read
10 as follows:

11 The insurance commissioner shall make reasonable regulations in aid
12 of the administration of this chapter which may include, but shall not
13 be limited to regulations concerning the maintenance of adequate
14 insurance, bonds, or cash deposits, information required of
15 registrants, and methods of expediting speedy and fair payments to
16 claimants: PROVIDED, That the commissioner may not adopt rules after
17 the effective date of this section that are based solely on this
18 section, a statute's statement of intent or purpose, or on the enabling
19 provisions of the statute establishing the agency, or any combination
20 of such provisions, for statutory authority to adopt any rule, except
21 rules defining or clarifying terms in, or procedures necessary to the
22 implementation of a statute.

23 **Sec. 6.** RCW 48.46.200 and 1975 1st ex.s. c 290 s 21 are each
24 amended to read as follows:

25 The commissioner may adopt, in accordance with the provisions of
26 the administrative procedure act, chapter 34.05 RCW, (~~promulgate~~)
27 rules and regulations as necessary or proper to carry out the
28 provisions of this chapter: PROVIDED, That the commissioner may not
29 adopt rules after the effective date of this section that are based
30 solely on this section, a statute's statement of intent or purpose, or
31 on the enabling provisions of the statute establishing the agency, or
32 any combination of such provisions, for statutory authority to adopt
33 any rule, except rules defining or clarifying terms in, or procedures
34 necessary to the implementation of a statute. Nothing in this chapter
35 shall be construed to prohibit the commissioner from requiring changes
36 in procedures previously approved by (~~him~~) the commissioner.

1 **Sec. 7.** RCW 34.05.328 and 1995 c 403 s 201 are each amended to
2 read as follows:

3 (1) Before adopting a rule described in subsection (5) of this
4 section, an agency shall:

5 (a) Clearly state in detail the general goals and specific
6 objectives of the statute that the rule implements;

7 (b) Determine that the rule is needed to achieve the general goals
8 and specific objectives stated under (a) of this subsection, and
9 analyze alternatives to rule making and the consequences of not
10 adopting the rule;

11 (c) Determine that the probable benefits of the rule are greater
12 than its probable costs, taking into account both the qualitative and
13 quantitative benefits and costs and the specific directives of the
14 statute being implemented;

15 (d) Determine, after considering alternative versions of the rule
16 and the analysis required under (b) and (c) of this subsection, that
17 the rule being adopted is the least burdensome alternative for those
18 required to comply with it that will achieve the general goals and
19 specific objectives stated under (a) of this subsection;

20 (e) Determine that the rule does not require those to whom it
21 applies to take an action that violates requirements of another federal
22 or state law;

23 (f) Determine that the rule does not impose more stringent
24 performance requirements on private entities than on public entities
25 unless required to do so by federal or state law;

26 (g) Determine if the rule differs from any federal regulation or
27 statute applicable to the same activity or subject matter and, if so,
28 determine that the difference is justified by the following:

29 (i) A state statute that explicitly allows the agency to differ
30 from federal standards; or

31 (ii) Substantial evidence that the difference is necessary to
32 achieve the general goals and specific objectives stated under (a) of
33 this subsection; and

34 (h) Coordinate the rule, to the maximum extent practicable, with
35 other federal, state, and local laws applicable to the same activity or
36 subject matter.

37 (2) In making its determinations pursuant to subsection (1) (b)
38 through (g) of this section, the agency shall place in the rule-making

1 file documentation of sufficient quantity and quality so as to persuade
2 a reasonable person that the determinations are justified.

3 (3) Before adopting rules described in subsection (5) of this
4 section, an agency shall place in the rule-making file a rule
5 implementation plan for rules filed under each adopting order. The
6 plan shall describe how the agency intends to:

7 (a) Implement and enforce the rule, including a description of the
8 resources the agency intends to use;

9 (b) Inform and educate affected persons about the rule;

10 (c) Promote and assist voluntary compliance; and

11 (d) Evaluate whether the rule achieves the purpose for which it was
12 adopted, including, to the maximum extent practicable, the use of
13 interim milestones to assess progress and the use of objectively
14 measurable outcomes.

15 (4) After adopting a rule described in subsection (5) of this
16 section regulating the same activity or subject matter as another
17 provision of federal or state law, an agency shall do all of the
18 following:

19 (a) Provide to the business assistance center a list citing by
20 reference the other federal and state laws that regulate the same
21 activity or subject matter;

22 (b) Coordinate implementation and enforcement of the rule with the
23 other federal and state entities regulating the same activity or
24 subject matter by making every effort to do one or more of the
25 following:

26 (i) Deferring to the other entity;

27 (ii) Designating a lead agency; or

28 (iii) Entering into an agreement with the other entities specifying
29 how the agency and entities will coordinate implementation and
30 enforcement.

31 If the agency is unable to comply with this subsection (4)(b), the
32 agency shall report to the legislature pursuant to (c) of this
33 subsection;

34 (c) Report to the joint administrative rules review committee:

35 (i) The existence of any overlap or duplication of other federal or
36 state laws, any differences from federal law, and any known overlap,
37 duplication, or conflict with local laws; and

1 (ii) Make recommendations for any legislation that may be necessary
2 to eliminate or mitigate any adverse effects of such overlap,
3 duplication, or difference.

4 (5)(a) Except as provided in (b) of this subsection, this section
5 applies to:

6 (i) Significant legislative rules of the departments of ecology,
7 labor and industries, health, revenue, and natural resources, the
8 employment security department, the forest practices board, the office
9 of the insurance commissioner, and to the legislative rules of the
10 department of fish and wildlife implementing chapter 75.20 RCW; and

11 (ii) Any rule of any agency, if this section is voluntarily made
12 applicable to the rule by the agency, or is made applicable to the rule
13 by a majority vote of the joint administrative rules review committee
14 within forty-five days of receiving the notice of proposed rule making
15 under RCW 34.05.320.

16 (b) This section does not apply to:

17 (i) Emergency rules adopted under RCW 34.05.350;

18 (ii) Rules relating only to internal governmental operations that
19 are not subject to violation by a nongovernment party;

20 (iii) Rules adopting or incorporating by reference without material
21 change federal statutes or regulations, Washington state statutes,
22 rules of other Washington state agencies, shoreline master programs
23 other than those programs governing shorelines of state-wide
24 significance, or, as referenced by Washington state law, national
25 consensus codes that generally establish industry standards, if the
26 material adopted or incorporated regulates the same subject matter and
27 conduct as the adopting or incorporating rule, however, the exemption
28 in this subsection (5)(b)(iii) does not apply if the rule adopted or
29 incorporated by reference has not previously gone through the process
30 or a substantially similar process in this section. Any doubts as to
31 whether this requirement has been met shall be resolved in favor of
32 causing the rules to be subjected to the requirements of this section;

33 (iv) Rules that only correct typographical errors, make address or
34 name changes, or clarify language of a rule without changing its
35 effect;

36 (v) Rules the content of which is explicitly and specifically
37 dictated by statute; or

38 (vi) Rules that set or adjust fees or rates pursuant to legislative
39 standards.

1 (c) For purposes of this subsection:

2 (i) A "procedural rule" is a rule that adopts, amends, or repeals
3 (A) any procedure, practice, or requirement relating to any agency
4 hearings; (B) any filing or related process requirement for making
5 application to an agency for a license or permit; or (C) any policy
6 statement pertaining to the consistent internal operations of an
7 agency.

8 (ii) An "interpretive rule" is a rule, the violation of which does
9 not subject a person to a penalty or sanction, that sets forth the
10 agency's interpretation of statutory provisions it administers.

11 (iii) A "significant legislative rule" is a rule other than a
12 procedural or interpretive rule that (A) adopts substantive provisions
13 of law pursuant to delegated legislative authority, the violation of
14 which subjects a violator of such rule to a penalty or sanction; (B)
15 establishes, alters, or revokes any qualification or standard for the
16 issuance, suspension, or revocation of a license or permit; or (C)
17 adopts a new, or makes significant amendments to, a policy or
18 regulatory program. If the amendment is made to a subsection of an
19 existing rule, then the entire rule must go through the determination
20 process.

21 (d) In the notice of proposed rule making under RCW 34.05.320, an
22 agency shall state whether this section applies to the proposed rule
23 pursuant to (a)(i) of this subsection, or if the agency will apply this
24 section voluntarily.

25 (6) By January 31, 1996, and by January 31st of each even-numbered
26 year thereafter, the office of financial management, after consulting
27 with state agencies, counties, and cities, and business, labor, and
28 environmental organizations, shall report to the governor and the
29 legislature regarding the effects of this section on the regulatory
30 system in this state. The report shall document:

31 (a) The rules proposed to which this section applied and to the
32 extent possible, how compliance with this section affected the
33 substance of the rule, if any, that the agency ultimately adopted;

34 (b) The costs incurred by state agencies in complying with this
35 section;

36 (c) Any legal action maintained based upon the alleged failure of
37 any agency to comply with this section, the costs to the state of such
38 action, and the result;

- 1 (d) The extent to which this section has adversely affected the
2 capacity of agencies to fulfill their legislatively prescribed mission;
3 (e) The extent to which this section has improved the acceptability
4 of state rules to those regulated; and
5 (f) Any other information considered by the office of financial
6 management to be useful in evaluating the effect of this section.

7 **Sec. 8.** RCW 34.05.570 and 1995 c 403 s 802 are each amended to
8 read as follows:

9 (1) Generally. Except to the extent that this chapter or another
10 statute provides otherwise:

11 (a) Except as provided in subsection (2) of this section, the
12 burden of demonstrating the invalidity of agency action is on the party
13 asserting invalidity;

14 (b) The validity of agency action shall be determined in accordance
15 with the standards of review provided in this section, as applied to
16 the agency action at the time it was taken;

17 (c) The court shall make a separate and distinct ruling on each
18 material issue on which the court's decision is based; and

19 (d) The court shall grant relief only if it determines that a
20 person seeking judicial relief has been substantially prejudiced by the
21 action complained of.

22 (2) Review of rules. (a) A rule may be reviewed by petition for
23 declaratory judgment filed pursuant to this subsection or in the
24 context of any other review proceeding under this section. In an
25 action challenging the validity of a rule, the agency shall be made a
26 party to the proceeding.

27 (b) The validity of any rule may be determined upon petition for a
28 declaratory judgment addressed to the superior court of Thurston
29 county, when it appears that the rule, or its threatened application,
30 interferes with or impairs or immediately threatens to interfere with
31 or impair the legal rights or privileges of the petitioner. The burden
32 of demonstrating the validity of any rule is on the agency. The
33 declaratory judgment order may be entered whether or not the petitioner
34 has first requested the agency to pass upon the validity of the rule in
35 question.

36 (c) In a proceeding involving review of a rule, the court shall
37 declare the rule invalid only if it finds that: The rule violates
38 constitutional provisions; the rule exceeds the statutory authority of

1 the agency; the rule was adopted without compliance with statutory
2 rule-making procedures; or the rule is arbitrary and capricious.

3 (3) Review of agency orders in adjudicative proceedings. The court
4 shall grant relief from an agency order in an adjudicative proceeding
5 only if it determines that:

6 (a) The order, or the statute or rule on which the order is based,
7 is in violation of constitutional provisions on its face or as applied;

8 (b) The order is outside the statutory authority or jurisdiction of
9 the agency conferred by any provision of law;

10 (c) The agency has engaged in unlawful procedure or decision-making
11 process, or has failed to follow a prescribed procedure;

12 (d) The agency has erroneously interpreted or applied the law;

13 (e) The order is not supported by evidence that is substantial when
14 viewed in light of the whole record before the court, which includes
15 the agency record for judicial review, supplemented by any additional
16 evidence received by the court under this chapter;

17 (f) The agency has not decided all issues requiring resolution by
18 the agency;

19 (g) A motion for disqualification under RCW 34.05.425 or 34.12.050
20 was made and was improperly denied or, if no motion was made, facts are
21 shown to support the grant of such a motion that were not known and
22 were not reasonably discoverable by the challenging party at the
23 appropriate time for making such a motion;

24 (h) The order is inconsistent with a rule of the agency unless the
25 agency explains the inconsistency by stating facts and reasons to
26 demonstrate a rational basis for inconsistency; or

27 (i) The order is arbitrary or capricious.

28 (4) Review of other agency action.

29 (a) All agency action not reviewable under subsection (2) or (3) of
30 this section shall be reviewed under this subsection.

31 (b) A person whose rights are violated by an agency's failure to
32 perform a duty that is required by law to be performed may file a
33 petition for review pursuant to RCW 34.05.514, seeking an order
34 pursuant to this subsection requiring performance. Within twenty days
35 after service of the petition for review, the agency shall file and
36 serve an answer to the petition, made in the same manner as an answer
37 to a complaint in a civil action. The court may hear evidence,
38 pursuant to RCW 34.05.562, on material issues of fact raised by the
39 petition and answer.

1 (c) Relief for persons aggrieved by the performance of an agency
2 action, including the exercise of discretion, or an action under (b) of
3 this subsection can be granted only if the court determines that the
4 action is:

5 (i) Unconstitutional;

6 (ii) Outside the statutory authority of the agency or the authority
7 conferred by a provision of law;

8 (iii) Arbitrary or capricious; or

9 (iv) Taken by persons who were not properly constituted as agency
10 officials lawfully entitled to take such action.

11 **Sec. 9.** RCW 4.84.350 and 1995 c 403 s 903 are each amended to read
12 as follows:

13 (1) Except as otherwise specifically provided by statute, a court
14 shall award a qualified party that prevails in a judicial review of an
15 agency action fees and other expenses, including reasonable attorneys'
16 fees, unless the court finds that the agency action was substantially
17 justified or that circumstances make an award unjust. A qualified
18 party shall be considered to have prevailed if the qualified party
19 obtained relief on a significant issue that achieves some benefit that
20 the qualified party sought.

21 (2) The amount awarded a qualified party under subsection (1) of
22 this section shall not exceed:

23 (a) For cases involving rule validity:

24 (i) Twenty-five thousand dollars for superior court cases; and

25 (ii) Fifteen thousand dollars for appeals to the court of appeals
26 and the supreme court; and

27 (b) For cases involving other agency action:

28 (i) Fifty thousand dollars for superior court cases; and

29 (ii) Fifteen thousand dollars for appeals to the court of appeals
30 and the supreme court.

31 (3) Subsection (1) of this section shall not apply unless all
32 parties challenging the agency action are qualified parties. If two or
33 more qualified parties join in an action, the award in total shall not
34 exceed twenty-five thousand dollars. The court, in its discretion, may
35 reduce the amount to be awarded pursuant to subsection (1) of this
36 section, or deny any award, to the extent that a qualified party during
37 the course of the proceedings engaged in conduct that unduly or

1 unreasonably protracted the final resolution of the matter in
2 controversy.

3 (4) Qualified parties shall receive awards under this section for
4 cases pending July 23, 1995.

5 NEW SECTION. **Sec. 10.** A new section is added to chapter 4.84 RCW
6 to read as follows:

7 If an agency chooses to appeal a decision of the superior court
8 rendered under chapter 34.05 RCW, the agency shall pay the subsequent
9 fees and other expenses incurred by the qualified party or parties that
10 prevailed in superior court.

11 **Sec. 11.** RCW 4.84.340 and 1995 c 403 s 902 are each amended to
12 read as follows:

13 Unless the context clearly requires otherwise, the definitions in
14 this section apply throughout RCW 4.84.340 through 4.84.360 and section
15 10 of this act.

16 (1) "Agency" means any state board, commission, department,
17 institution of higher education, or officer, authorized by law to make
18 rules or to conduct adjudicative proceedings, except those in the
19 legislative or judicial branches, the governor, or the attorney general
20 except to the extent otherwise required by law.

21 (2) "Agency action" means agency action as defined by chapter 34.05
22 RCW.

23 (3) "Fees and other expenses" includes the reasonable expenses of
24 expert witnesses, the reasonable cost of a study, analysis, engineering
25 report, test, or project that is found by the court to be necessary for
26 the preparation of the party's case, and reasonable attorneys' fees.
27 Reasonable attorneys' fees shall be based on the prevailing market
28 rates for the kind and quality of services furnished, except that (a)
29 no expert witness shall be compensated at a rate in excess of the
30 highest rates of compensation for expert witnesses paid by the state of
31 Washington, and (b) attorneys' fees shall not be awarded in excess of
32 one hundred fifty dollars per hour unless the court determines that an
33 increase in the cost of living or a special factor, such as the limited
34 availability of qualified attorneys for the proceedings involved,
35 justifies a higher fee.

36 (4) "Judicial review" means a judicial review as defined by chapter
37 34.05 RCW.

1 (5) "Qualified party" means (a) an individual whose net worth did
2 not exceed one million dollars at the time the initial petition for
3 judicial review was filed or (b) a sole owner of an unincorporated
4 business, or a partnership, corporation, association, or organization
5 whose net worth did not exceed five million dollars at the time the
6 initial petition for judicial review was filed, except that an
7 organization described in section 501(c)(3) of the federal internal
8 revenue code of 1954 as exempt from taxation under section 501(a) of
9 the code and a cooperative association as defined in section 15(a) of
10 the agricultural marketing act (12 U.S.C. 1141J(a)), may be a party
11 regardless of the net worth of such organization or cooperative
12 association.

13 **Sec. 12.** RCW 34.05.542 and 1988 c 288 s 509 are each amended to
14 read as follows:

15 Subject to other requirements of this chapter or of another
16 statute:

17 (1) A petition for judicial review of a rule may be filed at any
18 time, except as limited by RCW 34.05.375.

19 (2) A petition for judicial review of an order shall be filed with
20 the court and served on the agency, the office of the attorney general,
21 and all parties of record within thirty days after service of the final
22 order.

23 (3) A petition for judicial review of agency action other than the
24 adoption of a rule or the entry of an order is not timely unless filed
25 with the court and served on the agency, the office of the attorney
26 general, and all other parties of record within (~~thirty days~~) seven
27 years after the agency action, but the time is extended during any
28 period that the petitioner did not know and was under no duty to
29 discover or could not reasonably have discovered that the agency had
30 taken the action or that the agency action had a sufficient effect to
31 confer standing upon the petitioner to obtain judicial review under
32 this chapter.

33 (4) Service of the petition on the agency shall be by delivery of
34 a copy of the petition to the office of the director, or other chief
35 administrative officer or chairperson of the agency, at the principal
36 office of the agency. Service of a copy by mail upon the other parties
37 of record and the office of the attorney general shall be deemed

1 complete upon deposit in the United States mail, as evidenced by the
2 postmark.

3 (5) Failure to timely serve a petition on the office of the
4 attorney general is not grounds for dismissal of the petition.

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