

# HOUSE BILL REPORT

## HB 1157

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**As Reported by House Committee On:**  
Agriculture & Natural Resources

**Title:** An act relating to reform of the forest practices permitting system.

**Brief Description:** Regarding the forest practices permitting system.

**Sponsors:** Representatives Orcutt, Blake, Rivers, Kretz, Taylor, Short and Condotta.

**Brief History:**

**Committee Activity:**

Agriculture & Natural Resources: 2/4/11, 1/31/12 [DPS].

**Brief Summary of Substitute Bill**

- Integrates hydraulic project approvals for forestry activities into the associated forest practices application (FPA).
- Extends the duration of an approved FPA.
- Increases FPA fees.

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### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Blake, Chair; Chandler, Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Finn, Hinkle, Kretz, Lytton, Orcutt and Pettigrew.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Dunshee and Van De Wege.

**Staff:** Jason Callahan (786-7117).

**Background:**

[Hydraulic Project Approvals.](#)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

A person must obtain a hydraulic project approval (HPA) prior to commencing any construction project that will use, divert, obstruct, or change the natural flow of any of the salt or fresh waters of the state. The HPAs are issued by the Washington Department of Fish and Wildlife (WDFW) to ensure the proper protection of fish life.

To receive a HPA, the applicant must provide certain information to the WDFW. This information includes general plans for the overall project, complete plans and specifications for any construction that is proposed to occur within the mean higher high water line (saltwater) or ordinary high water line (freshwater), and complete plans for the proper protection of fish life.

A person who unlawfully undertakes a project in violation of the HPA requirements may be prosecuted for a gross misdemeanor. Prosecution is available if a person conducts a project without a HPA, or if a person violates the conditions of the operative HPA.

#### Forest Practices Applications.

A forest practices application (FPA) must be approved by the Department of Natural Resources (DNR) prior to conducting a forest practice such as tree thinning, chemical application, forest road building, or tree harvest. The FPA is submitted to the DNR, and if approved, the FPA is valid for conducting the allowable forest practices for a period of two years from the date of approval.

The Forest Practices Act establishes four classes of forest practices based on the potential for a proposed operation to adversely affect public resources. The Forest Practices Board establishes standards that determine which forest practices are included in each class.

Any owner of forest land who proposes to conduct a forest practice must pay an application fee. The fee for most forest practices applications is \$50. However, a fee of \$500 generally applies to forest practice operations on lands that have high potential for conversion.

Forest practices that use, divert, obstruct, or change the natural flow of water may also be required to obtain a HPA in addition to an approved FPA.

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#### **Summary of Substitute Bill:**

By July 1, 2013, the Forest Practices Board must incorporate fish protection standards from current Washington Department of Fish and Wildlife (WDFW) rules into the Forest Practices Rules, as well as approve technical guidance. Once these rules have been incorporated, a hydraulic project requiring a forest practices application (FPA) is exempt from the hydraulic project approval requirement and is regulated under the forest practices rules. Future changes in the WDFW's fish protection rules relevant to forestry must go through the forest practices adaptive management process and then be incorporated into the forest practices rules.

The WDFW may continue to review and comment on any FPA, and may provide information and technical assistance to the Department of Natural Resources (DNR) regarding any forestry-related hydraulic project. The WDFW must also provide concurrence reviews for certain FPAs that involve a water crossing structure, including specified culvert projects, bridge projects, and projects involving fill. Under this process, applicants must submit plans and specifications to the WDFW prior to submitting their FPA, and the WDFW has up to 30 days to review the project for consistency with standards for the protection of fish life.

The duration of a FPA or notification is increased from two to three years, and can be renewed subject to any new forest practices rules adopted in the time since the initial issuance.

The authority to issue a notice of conversion to a landowner who has converted forestland without authorization is transferred from the DNR to local government entities. When the DNR learns of potential conversion activities, it must take appropriate enforcement action under the forest practices rules and provide notice to the appropriate local government entities.

Fees for FPAs are increased threefold. Specifically, forest practices applications in which the land is to remain in forestry, Class II, III, and certain Class IV applications, are increased from \$50 to \$150. Class IV general applications which involve conversion related activities and are increased from \$500 to \$1,500.

**Substitute Bill Compared to Original Bill:**

The original bill allowed an approved forest practices approval to be effective for five years instead of two and allowed for a one-time renewal of forest practices approvals when the approved forest practice has not been completed.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) A five-year permit just makes sense since the timber market sees drastic changes in the value of trees over relatively short periods of time and the permittee needs to be able to move nimbly in the market. A longer permit timeline would allow forest operators to have the application process completed ahead of time when the trees can be sold for the greatest value. Washington foresters compete with British Columbia foresters who can move more quickly in response to market increases.

This proposal enhances government efficiency. Longer timelines would result in the Department of Natural Resources (DNR) having to process fewer applications and avoid many applications being submitted at the same time whenever the market value of timber increases. Automatic renewals would save the state time because all of the paperwork will have already been done. There are long-term permits available, but they are difficult to obtain.

(In support with concerns) Less forest practices applications mean less fees paid to the DNR and a diminishment in revenue. The extended time period for each permit would mean that the DNR needs additional time to review applications.

(With concerns) There is a potential impact to the protection of public resources because any new rules governing forestry operations would have an additional three-year lag in effectiveness since existing permits would fall under the old rules. In addition, allowing a renewal without the DNR being able to add additional protections would further delay any effectiveness in rule changes. Changes to the government of forest practices should be done in the spirit of collaboration embodied in the Forests and Fish Law and may require an amendment to the habitat conservation plan covering the state's forest practices regulations.

(Opposed) None.

**Persons Testifying:** See Committee records from the 2011 Regular Session.

**Persons Signed In To Testify But Not Testifying:** None.