

# HOUSE BILL REPORT

## SSB 5235

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### As Reported by House Committee On:

Agriculture & Natural Resources

**Title:** An act relating to the state environmental policy act requirements for class I, II, and III forest practices on state trust lands.

**Brief Description:** Exempting certain forest practices from the environmental impact statement requirements of chapter 43.21C RCW.

**Sponsors:** Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Hargrove, Morton and Doumit).

### Brief History:

#### Committee Activity:

Agriculture & Natural Resources: 4/2/03, 4/4/03 [DPA].

#### Brief Summary of Substitute Bill (As Amended by House Committee)

- Consolidates State Environmental Policy Act (SEPA) appeals arising from state timber sales at the Forest Practices Appeals Board.

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## HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** Do pass as amended. Signed by 10 members: Representatives Linville, Chair; Rockefeller, Vice Chair; Holmquist, Assistant Ranking Minority Member; Kristiansen, Assistant Ranking Minority Member; Eickmeyer, Grant, Hunt, McDermott, Orcutt and Sump.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Schoesler, Ranking Minority Member; Chandler and Quall.

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

### Background:

The State Environmental Policy Act (SEPA)

The State Environmental Policy Act (SEPA) requires local governments and state agencies to prepare an environmental impact statement (EIS) if proposed legislation or other major action may have a probable significant, adverse impact on the environment. The responsible official has authority to make the threshold determination whether an environmental impact statement must be prepared. If it appears a probable significant adverse environmental impact may result, the proposal may be altered or its probable significant adverse impact mitigated. If this cannot be accomplished, an EIS is prepared. The EIS is limited, or scoped, to address only the matters determined to have a probable significant adverse environmental impact.

### Forest Practices

The Legislature has established the threshold for four classes of forest management activities, or forest practices. Very generally, the different classes of forest practices are defined as follows:

- Class I: Minimal forest practices that have no direct potential for damage to a public resource.
- Class II: Forest practices that have a less than ordinary potential for damaging a public resource.
- Class III: Forest Practices that are more substantial than Class II, but less substantial than Class IV.
- Class IV: Forest practices that have a potential for a substantial impact on the environment, or that will not be reforested because of conversion to an urban use.

Class I, II, and III forest practices are exempt from the requirements under SEPA to prepare a detailed statement. Class IV forest practices requires the Department of Natural Resources (DNR) to conduct an initial review within 10 days to determine whether or not a detailed statement under SEPA must be prepared. If the DNR finds that a detailed statement is not required, the appropriate local government can come to the opposite conclusion.

Before conducting a harvest activity, the landowner must receive approval of a forest practices application for the appropriate forest practice class.

### Forest Practice Appeals Board

The Forest Practices Appeals Board (FPAB) was created in 1974 and hears appeals relating to the approval or disapproval of forest practice applications, landscape plans, or watershed analyses. Superior court review of FPAB decisions is available through the Administrative Procedures Act.

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### **Summary of Amended Bill:**

Any procedural determination of significance or non-significance made by the DNR under SEPA may only be heard by the FPAB when the determination resulted from a decision to conduct a sale of state timber that will be harvested pursuant to a Class I, II, or III forest practice. The FPAB must consolidate the hearing with any other hearings that arise from the timber sale at issue. The DNR may not initiate an auction on a timber sale that is being appealed until 30 days after the FPAB reaches its final ruling.

**Amended Bill Compared to Substitute Bill:**

The original bill exempts any decision or action of both the Department of Natural Resources and the Forest Practices Board concerning state trust lands from all procedural requirements for the preparation of an EIS.

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**Appropriation:** None.

**Fiscal Note:** Not Requested.

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

**Testimony For:** (Original bill) The bill is a simple efficiency bill that will lower costs to the state. SEPA currently is overlaid on too many other rules and the process is too costly and time consuming. The SEPA process also allows for challenges to sales, which add extra costs to the state.

SEPA does not apply to private lands, so the bill will allow state timber sales to be treated the same way that private sales are treated. State timber sales come from trust lands, and the bill assists the DNR with its fiduciary responsibility to the trust.

Environmental reviews are retained by the bill. It only removes the basic SEPA requirement. All other agency actions are still required to undergo SEPA. The requirement to do SEPA on timber sales is a policy quirk from years ago, before DNR was required to conduct program-wide environmental reviews. Under this bill the environment is being amply protected.

The bill can also help local economies by giving mills the wood-source security that they need to make capital investments. Generally, mills only invest when they know that they have a stable source of wood to buy. The timber industry and state trust timber sales are dependent on each other. Forest laws, rules, and regulations can have a serious impact on local economies.

**Testimony Against:** The bill exempts site specific environmental review, and although the DNR does conduct other statewide environmental reviews, these reviews do not take

into consideration the unique aspects of particular sites. The Forest Practices Board often receives SEPA-generated comments and they adjust their sales accordingly. This avoids litigation by allowing problems to be addressed early on in the process.

**Testified:** (In support) Senator Hargrove, prime sponsor; Representative Buck; Representative Kessler; Bob Dick, American Forest Resource Council; Bob Waltz, Seattle Snohomish Mill; Jim Mickel, High Cascade Mill; Rod Fleck, City of Forks; Carol Johnson, North Olympic Timber Action Committee; and Phillip Kitchel, Olympic Resource Company.

(Neutral) Bruce Mackey, Department of Natural Resources.

(Opposed) Josh Baldi, Washington Environmental Council.