

institution or facility necessitates that such a person be transferred or moved for observation, diagnosis or treatment to any state institution or facility for the care of mentally ill juveniles the secretary, or his designee, is authorized to order and effect such move or transfer: PROVIDED, HOWEVER, That the secretary shall adopt and implement procedures to assure that persons so transferred shall, while detained or confined in such institution or facility for the care of mentally ill juveniles, be provided with substantially similar opportunities for parole or early release evaluation and determination as persons detained or confined in state juvenile correctional institutions or facilities: PROVIDED, FURTHER, That the secretary shall notify the original committing court of such transfer.

NEW SECTION. Sec. 13. Section 134, chapter 249, Laws of 1909 and RCW 9.80.020 are each repealed.

Passed the House June 8, 1975.

Passed the Senate June 7, 1975.

Approved by the Governor June 16, 1975.

Filed in Office of Secretary of State June 17, 1975.

CHAPTER 200

[Substitute House Bill No. 1078]

FOREST PRACTICES

AN ACT Relating to forest practices; amending section 3, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.030; amending section 5, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.050; amending section 6, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.060; amending section 7, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.070; amending section 8, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.080; amending section 9, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.090; amending section 10, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.100; amending section 14, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.140; amending section 17, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.170; amending section 22, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.220; amending section 24, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.240; amending section 32, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.910; amending section 30, chapter 137, Laws of 1974 ex. sess. and RCW 90.48.420; adding a new section to chapter 90.48 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 3, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.030 are each amended to read as follows:

(1) There is hereby created the forest practices board of the state of Washington as an agency of state government consisting of members as follows:

- (a) The commissioner of public lands or his designee;
- (b) The director of the department of commerce and economic development or his designee;
- (c) The director of the department of agriculture or his designee;
- (d) The director of the department of ecology or his designee;
- (e) An elected member of a county legislative authority appointed by the governor: PROVIDED, That such member's service on the board shall be conditioned on his continued service as an elected county official; and

(f) ~~(Four)~~ Six members of the general public appointed by the governor, one of whom shall be an owner of not more than five hundred acres of forest land, and one of whom shall be an independent logging contractor.

(2) The members of the initial board appointed by the governor shall be appointed so that the term of one member shall expire December 31, 1975, the term

of one member shall expire December 31, 1976, the term of one member shall expire December 31, 1977, ~~((and))~~ the terms of two members shall expire December 31, 1978, and the terms of two members shall expire December 31, 1979. Thereafter, each member shall be appointed for a term of four years. Vacancies on the board shall be filled in the same manner as the original appointments. Each member of the board shall continue in office until his successor is appointed and qualified. The commissioner of public lands or his designee shall be the chairman of the board.

(3) The board shall meet at such times and places as shall be designated by the chairman or upon the written request of the majority of the board. The principal office of the board shall be at the state capital.

(4) Members of the board, except public employees and elected officials, shall receive forty dollars per diem for each day or major portion thereof actually spent in attending to their duties as board members and in addition they shall be entitled to reimbursement for subsistence and actual travel expenses incurred in the performance of their duties in the same manner as provided for state officials generally in chapter 43.03 RCW as now or hereafter amended.

(5) The board may employ such clerical help and staff pursuant to chapter 41.06 RCW as is necessary to carry out its duties.

Sec. 2. Section 5, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.050 are each amended to read as follows:

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

Class I: Minimal or specific forest practices that have no direct potential for damaging a public resource that may be conducted without submitting an application~~((: PROVIDED, That no forest practice shall be within Class I if it has a direct potential for damaging a public resource:))~~ or a notification;

Class II: Forest practices ((for)) which ((the application must be approved or disapproved by the department within fourteen calendar days from the date the department receives the application:)) have a less than ordinary potential for damaging a public resource that may be conducted without submitting an application and may begin five calendar days, or such lesser time as the department may determine, after written notification by the operator, in the manner, content, and form as prescribed by the department, is received by the department. Class II shall not include forest practices:

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

(b) Which require approvals under the provisions of the Hydraulics Act, RCW 75.20.100;

(c) Within "shoreslines of the state" as defined in RCW 90.58.030; or

(d) Excluded from Class II by the board;

Class III: Forest practices ((for which the)) other than those contained in Class I, II, or IV. A Class III application must be approved or disapproved by the department within ((thirty)) fourteen calendar days from the date the department receives the application;

Class IV: Forest practices other than those contained in Class I or II: (a) On lands platted after January 1, 1960, (b) on lands being converted to another use, (c) on lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are

not to be reforested because of the likelihood of future conversion to urban development, and/or (d) which have a potential for a substantial impact on the environment and therefore require an evaluation by the department as to whether or not a detailed statement must be prepared pursuant to the State Environmental Policy Act, chapter 43.21C RCW. Such evaluation shall be made within ten days from the date the department receives the application: PROVIDED, That nothing herein shall be construed to prevent any local or regional governmental entity from determining that a detailed statement must be prepared for an action pursuant to a Class IV forest practice taken by that governmental entity concerning the land on which forest practices will be conducted. A Class IV application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application, unless the department determines that a detailed statement must be made, in which case the application must be approved or disapproved by the department within sixty calendar days from the date the department receives the application, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such period.

Forest practices under Classes I, II, and III are exempt from the requirements for preparation of a detailed statement under the State Environmental Policy Act.

(2) No Class II ((or)), Class III, or Class IV forest practice shall be commenced or continued after January 1, 1975, unless the department has received a notification with regard to a Class II forest practice or approved an application with regard to a Class III or Class IV forest practice containing all information required by RCW 76.09.060 as now or hereafter amended: PROVIDED, That any person commencing a forest practice during 1974 may continue such forest practice until April 1, 1975, if such person has submitted an application to the department prior to January 1, 1975: PROVIDED, FURTHER, That in the event forest practices regulations necessary for the scheduled implementation of this chapter and RCW 90.48.420 have not been adopted in time to meet such schedules, the department shall have the authority to regulate forest practices and approve applications on such terms and conditions consistent with this chapter and RCW 90.48.420 and the purposes and policies of RCW 76.09.010 until applicable forest practices regulations are in effect.

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

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

(5) The department of natural resources shall notify the applicant in writing of either its approval of the application or its disapproval of the application and the specific manner in which the application fails to comply with the provisions of this section or with the forest practices regulations. Except as provided otherwise in this section, if the department fails to either approve or disapprove an application or any portion thereof within the applicable time limit, ~~((then, on petition of the~~

~~applicant the chairman of the appeals board shall issue an order directing the department to approve or disapprove the application within five days or issue a temporary approval until the application is either finally approved or disapproved: PROVIDED, That the temporary approval shall be issued only if it meets the conditions set by the board for such temporary approvals)) the application shall be deemed approved and the operation may be commenced: PROVIDED, That this provision shall not apply to applications which are neither approved nor disapproved pursuant to the provisions of subsection (7) of this section: PROVIDED, FURTHER, That if seasonal field conditions prevent the department from being able to properly evaluate the application, the department may issue an approval conditional upon further review within sixty days: PROVIDED, FURTHER, That the department shall have until April 1, 1975, to approve or disapprove an application involving forest practices allowed to continue to April 1, 1975, under the provisions of subsection (2) of this section. Upon receipt of any notification or any satisfactorily completed application the department shall in any event no later than two business days after such receipt transmit a copy to the departments of ecology, game, and fisheries, and to the county in which the forest practice is to be commenced. Any comments by such agencies shall be directed to the department of natural resources.~~

~~((4))~~ (6) If the county believes that an application is inconsistent with this chapter, the forest practices regulations, or any local authority consistent with RCW 76.09.240 as now or hereafter amended, it may so notify the department and the applicant, specifying its objections.

~~((5))~~ (7) The department shall not approve portions of applications to which a county objects if:

(a) The department receives written notice from the county of such objections within ~~((seven business days for a Class H or))~~ fourteen business days ~~((for a Class HH application))~~ from the time of ~~((its))~~ transmittal of the application to the county, or one day before the department acts on the application, whichever is later; and

(b) The objections relate to lands either:

- (i) Platted after January 1, 1960; or
- (ii) Being converted to another use.

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

~~((6))~~ (8) In addition to any rights under the above paragraph, the county may appeal any department approval of an application with respect to any lands within its jurisdiction. The appeals board may suspend the department's approval in

whole or in part pending such appeal where there exists potential for immediate and material damage to a public resource.

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

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

~~((9))~~ (11) A county may waive in whole or in part its rights under this section, and may withdraw or modify any such waiver, at any time by written notice to the department.

Sec. 3. Section 6, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.060 are each amended to read as follows:

(1) The department shall prescribe the form and contents of the notification and application. The forest practices regulations shall specify by whom and under what conditions the notification and application shall be signed. The application or notification shall be delivered in person or sent by certified mail to the department. The information required may include, but shall not be limited to:

- (a) Name and address of the forest land owner, timber owner, and operator;
- (b) Description of the proposed forest practice or practices to be conducted;
- (c) Legal description of the land on which the forest practices are to be conducted;
- (d) Planimetric and topographic maps showing location and size of all lakes and streams and other public waters in and immediately adjacent to the operating area and showing all existing and proposed roads and major tractor roads;
- (e) Description of the silvicultural, harvesting, or other forest practice methods to be used, including the type of equipment to be used and materials to be applied;
- (f) Proposed plan for reforestation and for any revegetation necessary to reduce erosion potential from roadsides and yarding roads, as required by the forest practices regulations;
- (g) Soil, geological, and hydrological data with respect to forest practices;
- (h) The expected dates of commencement and completion of all forest practices specified in the application;
- (i) Provisions for continuing maintenance of roads and other construction or other measures necessary to afford protection to public resources; and
- (j) An affirmation that the statements contained in the notification or application are true.

(2) At the option of the applicant, the application or notification may be submitted to cover a single forest practice or any number of forest practices within reasonable geographic or political boundaries as specified by the department. Long range plans may be submitted to the department for review and consultation.

(3) The application shall indicate whether any land covered by the application will be converted or is intended to be converted to a use other than commercial

timber production within three years after completion of the forest practices described in it. (a) If the application states that any such land will be or is intended to be so converted:

(i) The reforestation requirements of this chapter and of the forest practices regulations shall not apply if the land is in fact so converted unless applicable alternatives or limitations are provided in forest practices regulations issued under RCW 76.09.070 as now or hereafter amended;

(ii) Completion of such forest practice operations shall be deemed conversion of the lands to another use for purposes of chapters 84.28, 84.33, and 84.34 RCW unless the conversion is to a use permitted under a current use tax agreement permitted under chapter 84.34 RCW;

(iii) The forest practices described in the application are subject to applicable county, city and regional governmental authority permitted under RCW 76.09.240 as now or hereafter amended as well as the forest practices regulations.

(b) If the application does not state that any land covered by the application will be or is intended to be so converted:

(i) For six years after the date of the application the county or city and regional governmental entities may deny any or all applications for permits or approvals, including building permits and subdivision approvals, relating to nonforestry uses of land subject to the application;

(ii) Failure to comply with the reforestation requirements contained in any final order or decision shall constitute a removal from classification under the provisions of RCW 84.28.065, a removal of designation under the provisions of RCW 84.33.140, and a change of use under the provisions of RCW 84.34.080, and, if applicable, shall subject such lands to the payments and/or penalties resulting from such removals or changes; and

(iii) Conversion to a use other than commercial timber operations within three years after completion of the forest practices without the consent of the county or municipality shall constitute a violation of each of the county, municipal and regional authorities to which the forest practice operations would have been subject if the application had so stated.

~~((4))~~ (c) The application shall be either signed by the ~~((forest))~~ land owner or accompanied by a statement signed by the ~~((forest))~~ land owner indicating his intent with respect to conversion and acknowledging that he is familiar with the effects of this subsection.

~~((5))~~ (4) Whenever an approved application authorizes a forest practice which, because of soil condition, proximity to a water course or other unusual factor, has a ~~((greater than ordinary))~~ potential for causing material damage to a public resource, as determined by the department, the applicant shall, when requested on the approved application, notify the department ~~((five))~~ two days before the commencement of actual operations.

~~((6))~~ (5) Before ~~((commencing))~~ the operator commences any forest practice in a manner or to an extent significantly different from that described in a previously approved application or notification, ~~((the applicant shall submit))~~ there shall be submitted to the department a new application or notification form in the manner set forth in this section.

~~((7))~~ (6) The notification to or the approval given by the department to an application to conduct a forest practice shall be effective for a term of one year from the date of approval or notification and shall not be renewed unless a new application is filed and approved or a new notification has been filed.

~~((8))~~ (7) Notwithstanding any other provision of this section, no prior application or notification shall be required for any emergency forest practice necessitated by fire, flood, windstorm, earthquake, or other emergency as defined by the board, but the operator shall submit an application or notification, whichever is applicable, to the department within forty-eight hours after commencement of such practice.

Sec. 4. Section 7, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.070 are each amended to read as follows:

After the completion of a logging operation, satisfactory reforestation as defined by the rules and regulations promulgated by the board shall be completed within three years: PROVIDED, That a longer period may be authorized if seed or seedlings are not available: PROVIDED FURTHER, That a period of up to five years may be allowed where a natural regeneration plan is approved by the department. Upon the completion of a reforestation operation a report on such operation shall be filed with the department of natural resources. Within ~~((six))~~ twelve months of receipt of such a report the department shall inspect the reforestation operation, and shall determine either that the reforestation operation has been properly completed or that further reforestation and inspection is necessary.

The forest practices regulations may provide alternatives to or limitations on the applicability of reforestation requirements with respect to forest lands being converted in whole or in part to another use which is compatible with timber growing. The forest practices regulations may identify classifications and/or areas of forest land that have the likelihood of future conversion to urban development within a ten year period. The reforestation requirements may be modified or eliminated on such lands: PROVIDED, That such identification and/or such conversion to urban development must be consistent with any local or regional land use plans or ordinances.

Sec. 5. Section 8, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.080 are each amended to read as follows:

(1) The department shall have the authority to serve upon an operator a stop work order which shall be a final order of the department if:

(a) There is any violation of the provisions of this chapter or the forest practices regulations; or

(b) There is a deviation from the approved application; or

(c) Immediate action is necessary to prevent continuation of or to avoid material damage to a public resource.

(2) The stop work order shall set forth:

(a) The specific nature, extent, and time of the violation, deviation, damage, or potential damage;

(b) An order to stop all work connected with the violation, deviation, damage, or potential damage;

(c) The specific course of action needed to correct such violation or deviation or to prevent damage and to correct and/or compensate for damage to public resources which has resulted from any violation, unauthorized deviation, or wilful or negligent disregard for potential damage to a public resource; and/or those courses of action necessary to prevent continuing damage to public resources where the damage is resulting from the forest practice activities but has not resulted from any violation, unauthorized deviation, or negligence; and

(d) The right of the operator to a hearing before the appeals board.

The department shall immediately file a copy of such order with the appeals board and mail a copy thereof to the timber owner and forest land owner at the addresses shown on the application. The operator, timber owner, or forest land owner may commence an appeal to the appeals board within fifteen days after service upon the operator. If such appeal is commenced, a hearing shall be held not more than twenty days after copies of the notice of appeal were filed with the appeals board. Such proceeding shall be a contested case within the meaning of chapter 34.04 RCW. The operator shall comply with the order of the department immediately upon being served, but the appeals board if requested shall have authority to continue or discontinue in whole or in part the order of the department under such conditions as it may impose pending the outcome of the proceeding.

Sec. 6. Section 9, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.090 are each amended to read as follows:

If a violation, a deviation, material damage or potential for material damage to a public resource has occurred and the department determines that a stop work order is unnecessary, then the department shall issue and serve upon the operator or land owner a notice, which shall clearly set forth:

(1) (a) The specific nature, extent, and time of failure to comply with the approved application; or identifying the damage or potential damage; and/or

(b) The relevant provisions of this chapter or of the forest practice regulations relating thereto;

(2) The right of the operator or landowner to a hearing before the department; and

(3) The specific course of action ordered by the department to be followed by the operator to correct such failure to comply and to prevent, correct and/or compensate for material damage to public resources which resulted from ~~((forest practices))~~ any violation, unauthorized deviation, or wilful or negligent disregard for potential damage to a public resource; and/or those courses of action necessary to prevent continuing damage to public resources where the damage is resulting from the forest practice activities but has not resulted from any violation, unauthorized deviation, or negligence.

The department shall mail a copy thereof to the forest land owner and the timber owner at the addresses shown on the application, showing the date of service upon the operator. Such notice to comply shall become a final order of the department ~~((and))~~: PROVIDED, That no direct appeal to the appeals board will be allowed from such final order. Such operator shall undertake the course of action so ordered by the department unless, within fifteen days after the date of service of such notice to comply, the operator, forest land owner, or timber owner, shall request the department in writing to schedule a hearing. If so requested, the

department shall schedule a hearing on a date not more than twenty days after receiving such request. Within ten days after such hearing, the department shall issue a final order either withdrawing its notice to comply or clearly setting forth the specific course of action to be followed by such operator. Such operator shall undertake the course of action so ordered by the department unless within thirty days after the date of such final order, the operator, forest land owner, or timber owner appeals such final order to the appeals board.

No person shall be under any obligation under this section to prevent, correct, or compensate for any damage to public resources which occurs more than one year after the date of completion of the forest practices operations involved exclusive of reforestation, unless such forest practices were not conducted in accordance with forest practices rules and regulations: PROVIDED, That this provision shall not relieve the forest landowner from any obligation to comply with forest practices rules and regulations pertaining to providing continuing road maintenance. No action to recover damages shall be taken under this section more than two years after the date the damage involved occurs.

Sec. 7. Section 10, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.100 are each amended to read as follows:

If the department of ecology determines that a person has failed to comply with the forest practices regulations relating to water quality protection, and that the department of natural resources has not issued a stop work order or notice to comply, the department of ecology shall inform the department thereof. If the department of natural resources fails to take authorized enforcement action within twenty-four hours under RCW 76.09.080, 76.09.090, 76.09.120, or 76.09.130, ~~((and 76.09.170;))~~ the department of ecology may ~~((take such action, except that))~~ petition to the chairman of the appeals board, who shall, within forty-eight hours, either deny the petition or direct the department of natural resources to immediately issue a stop work order or notice to comply, or to impose a penalty. No civil or criminal penalties shall be imposed for past actions or omissions if such actions or omissions were conducted pursuant to an approval or directive of the department of natural resources.

Sec. 8. Section 14, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.140 are each amended to read as follows:

(1) The department of natural resources, through the attorney general, may take any necessary action to enforce any final order or final decision, or to enjoin any forest practices by any person for a one year period after such person has failed to comply with a final order or a final decision.

~~(2) ((The department of ecology, through the attorney general, may take any necessary action to enforce any final order of such department or any final decision of the pollution control hearings board relating to water quality protection; or to enjoin any forest practices relating to water quality protection by any person for a one year period after such person has failed to comply with a final order or final decision.~~

~~(3))~~ A county may bring injunctive, declaratory, or other actions for enforcement for forest practice activities within its jurisdiction in the superior court as provided by law against the department ~~((or the department of ecology)),~~ the forest land owner, timber owner or operator to enforce the forest practice regulations

or any final order of the department, or ~~((the department of ecology,))~~ the appeals board ~~((or the pollution control hearings board))~~: PROVIDED, That no civil or criminal penalties shall be imposed for past actions or omissions if such actions or omissions were conducted pursuant to an approval or directive of the department of natural resources ~~((or department of ecology))~~: AND PROVIDED FURTHER, That such actions shall not be commenced unless the department ~~((or the department of ecology))~~ fails to take appropriate action after ten days written notice to the ~~((respective))~~ department by the county of a violation of the forest practices regulations or final orders of the department ~~((or the department of ecology))~~ or the appeals board ~~((or the pollution control hearings board))~~.

Sec. 9. Section 17, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.170 are each amended to read as follows:

Every person who fails to comply with any provision of RCW 76.09.010 through 76.09.280 as now or hereafter amended or of the forest practices regulations shall be subject to a penalty in an amount of not more than ~~((one thousand))~~ five hundred dollars ~~((per day))~~ for every such violation. Each and every such violation shall be a separate and distinct offense. In case of a ~~((continuing violation))~~ failure to comply with a notice pursuant to RCW 76.09.090 as now or hereafter amended or a stop work order, every day's continuance shall be a separate and distinct violation. Every person who through an act of commission or omission procures, aids or abets in the violation shall be considered to have violated the provisions of this section and shall be subject to the penalty herein provided for: PROVIDED, That no penalty shall be imposed under this section upon any governmental official, an employee of any governmental department, agency, or entity, or a member of any board or advisory committee created by this chapter for any act or omission in his duties in the administration of this chapter or of any regulation promulgated thereunder.

The penalty herein provided for shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the department of natural resources ~~((or the department of ecology if water quality protection is involved,))~~ describing the violation with reasonable particularity. Within fifteen days after the notice is received, the person incurring the penalty may apply in writing to the department ~~((imposing the penalty))~~ for the remission or mitigation of such penalty. Upon receipt of the application, that department may remit or mitigate the penalty upon whatever terms that department in its discretion deems proper, provided the department ~~((imposing the penalty))~~ deems such remission or mitigation to be in the best interests of carrying out the purposes of this chapter. The department of natural resources ~~((and the department of ecology))~~ shall have authority to ascertain the facts regarding all such applications in such reasonable manner and under such regulations as ~~((they))~~ it may deem proper.

Any person incurring any penalty hereunder may appeal the same to the forest practices appeals board ~~((or PROVIDED, That the appeal of any penalty imposed by the department of ecology relating to water quality protection shall be to the pollution control hearings board))~~.

Such appeals shall be filed within thirty days of receipt of notice imposing any penalty unless an application for remission or mitigation is made to the department (~~(or the department of ecology)~~). When such an application for remission or mitigation is made, such appeals shall be filed within thirty days of receipt of notice from the department (~~(or the department of ecology)~~) setting forth the disposition of the application.

Any penalty imposed hereunder shall become due and payable thirty days after receipt of a notice imposing the same unless application for remission or mitigation is made or an appeal is filed. When such an application for remission or mitigation is made, any penalty incurred hereunder shall become due and payable thirty days after receipt of notice setting forth the disposition of such application unless an appeal is filed from such disposition. Whenever an appeal of any penalty incurred hereunder is filed, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final decision confirming the penalty in whole or in part.

If the amount of any penalty is not paid to the department (~~(or the department of ecology)~~) within thirty days after it becomes due and payable, the attorney general, upon the request of the (~~(respective director)~~) department, shall bring an action in the name of the state of Washington in the superior court of Thurston county or of any county in which such violator may do business, to recover such penalty. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise in this chapter provided.

Sec. 10. Section 22, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.220 are each amended to read as follows:

(1) The appeals board shall operate on either a part time or a full time basis, as determined by the governor. If it is determined that the appeals board shall operate on a full time basis, each member shall receive an annual salary to be determined by the governor. If it is determined that the appeals board shall operate on a part time basis, each member shall receive compensation on the basis of seventy-five dollars for each day spent in performance of his duties: PROVIDED, That such compensation shall not exceed ten thousand dollars in a fiscal year. Each member shall receive reimbursement for travel and other expenses incurred in the discharge of his duties in accordance with the provisions of chapter 43.03 RCW.

(2) The appeals board may appoint, discharge, and fix the compensation of an executive secretary, a clerk, and such other clerical, professional, and technical assistants as may be necessary. As specified in RCW 41.06.073, such employment shall be in accordance with the rules of the state civil service law, chapter 41.06 RCW.

(3) The appeals board shall as soon as practicable after the initial appointment of the members thereof, meet and elect from among its members a chairman, and shall at least biennially thereafter meet and elect or reelect a chairman.

(4) The principal office of the appeals board shall be at the state capital, but it may sit or hold hearings at any other place in the state. A majority of the appeals board shall constitute a quorum for making orders or decisions, promulgating rules and regulations necessary for the conduct of its powers and duties, or transacting other official business, and may act though one position on the board be

vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the board. The appeals board shall perform all the powers and duties granted to it in this chapter or as otherwise provided by law.

(5) The appeals board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members and upon being filed at the appeals board's principal office, and shall be open to public inspection at all reasonable times.

(6) The appeals board shall either publish at its expense or make arrangements with a publishing firm for the publication of those of its findings and decisions which are of general public interest, in such form as to assure reasonable distribution thereof.

(7) The appeals board shall maintain at its principal office a journal which shall contain all official actions of the appeals board, with the exception of findings and decisions, together with the vote of each member on such actions. The journal shall be available for public inspection at the principal office of the appeals board at all reasonable times.

(8) The forest practices appeals board shall have exclusive jurisdiction to hear appeals arising from an action or determination by the department(~~(, and the pollution control hearings board established by RCW 43.21B.010 shall have exclusive jurisdiction to hear appeals arising from an action or determination by the department of ecology)~~).

(9) (a) Any person aggrieved by the approval or disapproval of an application to conduct a forest practice may seek review from the appeals board by filing a request for the same within thirty days of the approval or disapproval. Concurrently with the filing of any request for review with the board as provided in this section, the requestor shall file a copy of his request with the department and the attorney general. The attorney general may intervene to protect the public interest and insure that the provisions of this chapter are complied with.

(b) The review proceedings authorized in subparagraph (a) of this subsection are subject to the provisions of chapter 34.04 RCW pertaining to procedures in contested cases.

Sec. 11. Section 24, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.240 are each amended to read as follows:

No county, city, municipality, or other local or regional governmental entity shall adopt or enforce any law, ordinance, or regulation pertaining to forest practices, except that to the extent otherwise permitted by law, such entities may exercise any:

(1) Land use planning or zoning authority: PROVIDED, That exercise of such authority may regulate forest practices only: (a) Where the application submitted under RCW 76.09.060 as now or hereafter amended indicates that the lands will be converted to a use other than commercial timber production; or (b) on lands which have been platted after January 1, 1960(~~(; or (c) on tracts of forest land not otherwise covered under subsections (a) and (b) and less than twenty acres including road rights of way in contiguous ownership not classified, designated and taxed under chapter 84.34 RCW, chapter 84.33 RCW, or chapter 84.28 RCW)~~):

PROVIDED, That no permit system solely for forest practices shall be allowed; that any additional or more stringent regulations shall not be inconsistent with the forest practices regulations enacted under this chapter; and such local regulations shall not unreasonably prevent timber harvesting;

(2) Taxing powers;

(3) Regulatory authority with respect to public health; and

(4) Authority granted by chapter 90.58 RCW, the "Shoreline Management Act of 1971", except that in relation to "shorelines" as defined in RCW 90.58.030, the following shall apply:

(a) The forest practice regulations adopted pursuant to this chapter shall be the sole rules applicable to the performance of forest practices, and enforcement thereof shall be solely as provided in chapter 76.09 RCW;

(b) As to that road construction which constitutes a substantial development, no permit shall be required under chapter 90.58 RCW for the construction of up to five hundred feet of one and only one road or segment of a road provided such road does not enter the shoreline more than once. Such exemption from said permit requirements shall be limited to a single road or road segment for each forest practice and such road construction shall be subject to the requirements of chapter 76.09 RCW and regulations adopted pursuant thereto and to the prohibitions or restrictions of any master program in effect under the provisions of chapter 90.58 RCW. Nothing in this subsection shall add to or diminish the authority of the shoreline management act regarding road construction except as specifically provided herein. The provisions of this subsection shall not relate to any road which crosses over or through a stream, lake, or other water body subject to chapter 90.58 RCW;

(c) Nothing in this section shall create, add to, or diminish the authority of local government to prohibit or restrict forest practices within the shorelines through master programs adopted and approved pursuant to chapter 90.58 RCW except as provided in (a) and (b) above.

Any powers granted by chapter 90.58 RCW pertaining to forest practices, as amended herein, are expressly limited to lands located within "shorelines of the state" as defined in RCW 90.58.030.

Sec. 12. Section 32, chapter 137, Laws of 1974 ex. sess. and RCW 76.09.910 are each amended to read as follows:

Nothing in RCW 76.09.010 through 76.09.280 as now or hereafter amended shall modify any requirements to ~~((obtain permits))~~ comply with the Shoreline Management Act of 1971 except as limited by RCW 76.09.240 as now or hereafter amended, or ~~((any violations that may be found, under the Shoreline Management Act of 1971 (chapter 90.58 RCW);))~~ the Hydraulics Act (RCW 75.20.100), other state statutes in effect on January 1, 1975, and any local ordinances not inconsistent with RCW 76.09.240 as now or hereafter amended.

Sec. 13. Section 30, chapter 137, Laws of 1974 ex. sess. and RCW 90.48.420 are each amended to read as follows:

(1) The department of ecology, pursuant to powers vested in it previously by chapter 90.48 RCW and consistent with the policies of said chapter and RCW 90.54.020(3), shall be solely responsible for establishing water quality standards for waters of the state. On or before January 1, 1975, the department of ecology

shall examine existing regulations containing water quality standards and other applicable rules and regulations of said department pertaining to waters of the state affected by nonpoint sources of pollution arising from forest practices and, when it appears appropriate to the department of ecology, modify said regulations. In any such examination or modification the department of ecology shall consider such factors, among others, as uses of the receiving waters, diffusion, down-stream cooling, and reasonable transient and short-term effects resulting from forest practices.

Promulgation of forest practices regulations by the department of ecology and the forest practices board, shall be accomplished so that compliance with such forest practice regulations will achieve compliance with ~~((such water quality standards))~~ water pollution control laws.

(2) The department of ecology shall monitor water quality to determine whether revisions in such water quality standards or revisions in such forest practices regulations are necessary to accomplish the foregoing result, and either promulgate appropriate revisions to such water quality standards or propose appropriate revisions to such forest practices regulations or both.

(3) Notwithstanding any other provisions of chapter 90.48 RCW or of the rules and regulations promulgated thereunder, no permit system pertaining to nonpoint sources of pollution arising from forest practices shall be authorized, and no civil or criminal penalties shall be imposed with respect to any forest practices conducted in full compliance with the applicable provisions of RCW 76.09.010 through 76.09.280, forest practices regulations, and any approvals or directives of the department of natural resources thereunder.

(4) Prior to the department of ecology taking action under statutes or regulations relating to water quality, regarding violations of water quality standards arising from forest practices, the department of ecology shall notify the department of natural resources.

NEW SECTION. Sec. 14. There is added to chapter 90.48 RCW a new section to read as follows:

The Forest Practices Act, chapter 76.09 RCW, and the forest practices regulations adopted thereunder relating to water quality protection shall be utilized to satisfy the planning and program requirements of sections 208, 209, and 305 of the federal Water Pollution Control Act, as regards silvicultural activities, unless it is determined by the department of ecology that extraordinary conditions exist which make forest practices regulations unsuitable to satisfy such federal requirements.

NEW SECTION. Sec. 15. This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House June 6, 1975.

Passed the Senate June 5, 1975.

Approved by the Governor June 16, 1975.

Filed in Office of Secretary of State June 17, 1975.