

no new petition may be filed for a period of five years.

NEW SECTION. Sec. 29. Section 14, chapter 187, Laws of 1939, section 14, chapter 240, Laws of 1961 and RCW 89.08.340 are each repealed.

NEW SECTION. Sec. 30. Insofar as any of the provisions of this chapter are inconsistent with the provisions of any other law, the provisions of this chapter shall be controlling: PROVIDED, HOWEVER, That none of the provisions of this chapter shall be construed so as to impair water rights appurtenant to lands within or without the boundaries of any district or districts organized hereunder.

NEW SECTION. Sec. 31. If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

Passed the House March 20, 1973.

Passed the Senate April 8, 1973.

Approved by the Governor April 25, 1973.

Filed in Office of Secretary of State April 26, 1973.

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CHAPTER 185  
[Substitute House Bill No. 306]  
ENVIRONMENTAL COORDINATION PROCEDURES  
ACT OF 1973

AN ACT Relating to coordination of procedures in relation to projects which contemplate use of the state's natural resources; adding a new chapter to Title 90 RCW; and making an effective date.

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

NEW SECTION. Section 1. (1) It is the sense of the legislature that the heavy burdens placed upon persons proposing to undertake certain types of projects in this state through requirements to obtain numerous permits and related documents from various state and local agencies are undesirable and should be alleviated. The legislature further finds that present methods for obtaining public views in relation to applications to state and local agencies pertaining to these projects are cumbersome and place undue hardships on members of the public thereby thwarting the public's ability to present such views.

(2) The purposes of this chapter are to:

(a) Provide for an optional procedure to assist those who, in the course of satisfying the requirements of state government prior

to undertaking a project which contemplates the use of the state's air, land, or water resources, must obtain a number of permits, from the department of ecology and one or more state or local agencies by establishing a mechanism in state government which will coordinate administrative decision-making procedures, and related quasi judicial and judicial review, pertaining to such documents.

(b) Provide to members of the public a better and easier opportunity to present their views comprehensively on proposed uses of natural resource and related environmental matters prior to the making of decisions on such uses by state or local agencies.

(c) Provide to members of the public who desire to carry out the aforementioned projects within the state of Washington a greater degree of certainty in terms of permit requirements of state and local government.

(d) Provide better coordination and understanding between state and local agencies in the administration of the various programs relating to air, water, and land resources.

(e) Establish the opportunity for members of the public to obtain information pertaining to requirements of federal and state law which must be satisfied prior to undertaking a project in the state.

NEW SECTION. Sec. 2. For purposes of this chapter the following words mean, unless the context clearly dictates otherwise:

(1) "Board" means the pollution control hearings board.

(2) "Department" means the department of ecology.

(3) "Local government" means a county, city or town.

(4) "Permit" means any license, permit, certificate, certification, approval, compliance schedule, or other similar document pertaining to any regulatory or management program related to the protection, conservation, or use of, or interference with, the natural resources of land, air or water in the state, which is required to be obtained from a state agency prior to constructing or operating a project in the state of Washington. Permit shall also mean a substantial development permit under RCW 90.58.140. Nothing in this chapter shall relate to a permit issued by the department of labor and industries or by the utilities and transportation commission; nor to the granting of proprietary interests in publicly owned property such as sales, leases, easements, use permits and licenses.

(5) "Person" means any individual, municipal, public, or private corporation, or other entity however denominated, including a state agency and county.

(6) "Processing" and "processing of applications" mean the entire process to be followed in relation to the making of decisions on an application for a permit and review thereof as provided in

sections 4 through 8 of this 1973 act.

(7) "Project" means any new activity or any expansion of or addition to an existing activity, fixed in location, for which permits are required from the department of ecology and one or more other state agencies prior to construction or operation, including, but not limited to industrial and commercial operations and developments.

(8) "State agency" means any state department, commission, board or other agency of the state however titled. For the limited purposes of this chapter only "state agency" shall also mean (a) any local or regional air pollution control authority established under chapter 70.94 RCW and (b) any local government when said government is acting in its capacity as a decision maker on an application for a permit pursuant to RCW 90.58.140.

NEW SECTION. Sec. 3. Nothing in this chapter shall apply to a plant or project which is required to be the subject of a certification by the governor pursuant to chapter 80.50 RCW.

NEW SECTION. Sec. 4. (1) Any person proposing a project may submit a master application to the department requesting the issuance of all permits necessary prior to the construction and operation of the project in the state of Washington. The master application shall be on a form furnished by the department and shall contain precise information as to the location of the project, and shall describe the nature of the project including any discharges of wastes proposed therefrom and any uses of, or interferences with, natural resources contemplated. No master application shall be accepted for processing by the department of ecology pursuant to this chapter unless it is accompanied by the certification of local government provided for in section 10 of this 1973 act.

(2) Upon receipt of a properly completed master application, the department shall immediately notify in writing each state agency having a possible interest in the master application arising from requirements pertaining to a permit program under its jurisdiction. The notification from the department shall be accompanied by a copy of the master application together with the date by which the agency shall respond to the notice. Each notified agency shall respond in writing to the department within the specified date, not exceeding fifteen days from receipt, as determined by the department, advising (a) (i) whether the agency does or does not have an interest in the master application, and (a) (ii) if the response to (a) (i) of this subsection is affirmative, the permit program or programs under the agency's jurisdiction to which the project described in the master application is pertinent, and whether, in relation to the master application, a public hearing as provided in sections 5 and 6 of this 1973 act would or would not be of value taking into consideration the

overall public interest. Each notified agency which (b) (i) responds within the specified date that it does not have an interest in the master application or (b) (ii) does not respond as required above within the specified date, shall not subsequently require a permit of the applicant for the project described in the master application; provided the bar to requiring a permit subsequently shall not be applicable if the master application provided the notified agency contained false, misleading, or deceptive information, or other information, or lack thereof, which would reasonably lead an agency to misjudge its interest in a master application.

(3) The department shall submit application forms relating to permit programs identified in affirmative responses under subsection (2) of this section to the applicant with a direction to complete and return them to the department within a reasonable time as specified by the department.

(4) When such applications, properly completed, have been returned to the department, each of the applications shall be transmitted to the appropriate state agency for the performance of its responsibilities of decision making in accordance with the procedures of this chapter.

(5) For the purpose of establishing priority dates upon water right permits and certificates issued pursuant to rulings on applications under chapters 90.03 and 90.44 RCW and processed under this chapter, the priority date shall be the date of submitting the master application to the department or the county office as provided in section 12(2) of this 1973 act.

NEW SECTION. Sec. 5. (1) The department, within a reasonable time after transmittal under section 4(4) of this 1973 act, shall cause a notice to be published at the applicant's expense once each week on the same day of the week for three consecutive weeks in a newspaper of general circulation within each county in which the project is proposed to be constructed or operated. The notice shall describe the nature of the master application including, with reasonable specificity, the project proposed, its location, the various permits applied for, and the state agency having jurisdiction over each such permit. Except as provided in section 5(2) of this 1973 act, the notice shall also state the time and place of the public hearing (to be held not less than twenty days after the date of last publication of the notice). It shall further state that a copy of the master application and a copy of all permit applications for the project are available for public inspection in the office for environmental permit applications of each county in which the project is proposed to be constructed or operated, as well as at the Olympia office and appropriate regional office of the department, together with such other locations as the department may designate.

(2) If the responses received by the department from state agencies under section 4(2) of this 1973 act unanimously state the position that a public hearing in relation to a master application would not be of value taking into consideration the overall public interest, and the department, after a careful evaluation, taking into consideration all interests involved, including the opportunities for members of the public to present views, concludes likewise, the provisions of subsection (1) of this section pertaining to the time and place of a public hearing shall not be included in the notice. In place thereof the notice shall state that members of the public may present relevant views and supporting materials in writing to the department in relation to any of the permits applied for within thirty days after the last date of publication of the notice in a newspaper.

NEW SECTION. Sec. 6. (1) Except as provided in section 5(2) of this 1973 act, prior to any final decision on any permit applications relating to a project subject to the procedures of this chapter, a public hearing shall be held in the county in which all or a major part of the proposed project is to be constructed or operated, such hearing to be held pursuant to notice made under section 5(1) of this 1973 act. At any such hearing the applicant may submit any relevant information and material in support of his applications, and members of the public may present relevant views and supporting materials in relation to any or all of the applications being considered.

(2) Each state agency having an application for a permit before it as described in the notice in section 5(1) of this 1973 act shall be represented at the public hearing by its chief administrative officer or his designee. The director of the department, or a hearing officer duly appointed by him, shall chair the hearing; however, the representative of any state agency (other than the department) within whose jurisdiction a specific application lies shall conduct the portion of the hearing pertaining to submission of information, views, and supporting materials which are relevant to that application. The chairman may, when appropriate, continue a hearing from time to time and place to place. The hearing shall be recorded in any manner suitable for transcription as determined by the department.

(3) No provisions of chapter 34.04 RCW shall apply to the hearing provided for by this section. Said hearing shall be conducted for the purpose of obtaining information for the assistance of state agencies but shall not be considered a trial or adversary proceeding.

(4) Upon completion of the public hearing the chairman, after consultation with the state agency representatives, shall establish

the date by which all state agencies shall forward their final decisions on applications before them to the department: PROVIDED, That this date may be extended by the chairman for reasonable cause. Every final decision shall set forth the basis for the conclusion reached together with a final order denying the application for a permit or granting it, subject to such conditions of approval as the deciding agency may have power to impose.

(5) In situations where a notice is provided pursuant to section 5(2) of this 1973 act and no public hearing is conducted, the department shall, after thirty days after the last notice publication in the newspaper, submit a copy of all views and supporting material received by it to each agency having an application for a permit before it as described in the notice. Concurrently therewith, the department shall notify each state agency, in writing, of the date by which final decisions on applications shall be forwarded to the department: PROVIDED, That this date may be extended by the department for reasonable cause. Each such final decision shall consist of the same contents as provided for final decisions in section 6(4) of this 1973 act.

(6) As soon as all final decisions are received by the department from the various participating state agencies, as provided in section 6 (4) and (5) of this 1973 act, the department shall incorporate them, without modification, into one document and transmit the same to the applicant either personally or by registered mail.

(7) Each state agency having jurisdiction to approve or deny an application for a permit shall have continuing power as vested in it prior to enactment of this 1973 act to make such determinations. Nothing in sections 3 through 6 of this 1973 act shall lessen or reduce such powers, and such sections shall modify only the procedures to be followed in the carrying out of such powers.

(8) A state agency may in the performance of its responsibilities of decision making under this chapter, request or receive additional information from an applicant and others prior or subsequent to a public hearing as necessary to the performance thereof.

NEW SECTION. Sec. 7. A state agency responding affirmatively as provided in section 4(2) of this 1973 act may withdraw from further participation in the processing provided in sections 4, 5, and 6 of this 1973 act at any time, by written notification to the director, if it subsequently appears to such state agency that it has no permit programs under its jurisdiction applicable to the project.

NEW SECTION. Sec. 8. (1) Any person aggrieved by any final decision contained in the document issued by the department pursuant to section 6(6) of this 1973 act may obtain review thereof by filing

a request, with the board, within thirty days of the transmittal under section 6(6) by the department of ecology of the document, for all final decisions other than a final decision relating to the granting or denial of a substantial development permit pursuant to RCW 90.58.140 in which case the filing of such request shall be with the shorelines hearings board. The board shall review all final decisions other than a final decision on a substantial development permit which shall be reviewed by the shorelines hearings board. In the event a request for review includes a final decision involving a substantial development permit and other permits, there shall be single staged hearing of the permits by the boards. The board shall be authorized to adopt rules and regulations implementing such staged hearings and the filing of requests so as to eliminate all unnecessary duplication. The scope of review by the boards and the standards of reviews used by the boards for determining the validity of any final decision shall be those contained in RCW 34.04.130.

(2) Judicial review of decisions of the actions of boards shall be controlled by RCW 43.21B.180 through 43.21B.200 except as they relate to decisions pertaining to substantial development permits under RCW 90.58.140 which shall be controlled by RCW 90.58.180.

NEW SECTION. Sec. 9. Notwithstanding any other statutes relating to the processing of application for permits, the procedures, including timing requirements and approval requirements related thereto, set forth in this chapter shall be exclusive in relation to applications for permits filed pursuant to section 4 of this 1973 act. The procedures of this chapter shall be in lieu of any procedures otherwise provided by statute, existing or hereafter enacted, to be followed by a state agency in ruling upon an application for a permit for a project under this chapter.

(2) The procedures of this chapter are applicable only to projects as defined in section 2(7) of this 1973 act and only through the completion of final decisions under section 6 of this 1973 act and of review proceedings of section 8 of this 1973 act and any ancillary proceedings. This chapter shall have no applicability to any applications for permit renewals, amendments, extensions, or other similar documents, or for replacing permits which are required subsequent to the completion of the decisions and proceedings under sections 6 and 8 of this 1973 act and any ancillary proceedings. For purposes of this section "ancillary proceedings" shall mean all proceedings, quasi judicial and judicial, held pursuant to any order of remand or similar order by the board or a court in relation to a final decision of a state agency made hereunder and held in response to the order of remand or similar order.

(3) Fee schedules previously and expressly established or

authorized by statute in relation to any application for a permit shall continue to be applicable even though processed under this chapter. The department shall collect such fees and forward them to the appropriate state agency.

NEW SECTION. Sec. 10. (1) No master application pertaining to a project filed under section 4 of this 1973 act shall be processed under this chapter unless it is accompanied by a certification from the pertinent local government that the project is in compliance with all zoning ordinances, and associated comprehensive plans, administered by said local government relating to the location of the project: PROVIDED, That if the local government has no such ordinances or plans the certification from local government shall so state and issue. For purposes of this section master programs of chapter 90.58 RCW are not zoning ordinances administered by local government. Local governments are authorized to accept applications for certifications as provided in this section and are directed to rule upon the same expeditiously to insure the purposes of this chapter are accomplished fully. Upon certification, the local government may not change such zoning ordinances so as to affect the proposed project until the procedures of this chapter, including any board or court reviews, are completed. The provisions of the state environmental policy act relating to the preparation of detailed impact statements shall not be applicable to the action approving or denying certifications authorized in this section.

(2) Nothing in this chapter shall modify in any manner whatsoever the applicability or inapplicability of any land use regulation statutes or local zoning ordinances to lands of any state agency.

(3) Approval of an application for certification as provided in this section shall not eliminate any requirements of the Shoreline Management Act of 1971 or any other statutes administered by a local government. A ruling by local government denying an application for certification shall not be appealable under this act: PROVIDED, That the denial of an application for certification pursuant to subsection (1) of this section shall not preclude the applicant from filing a permit application under any other available statute or procedure.

NEW SECTION. Sec. 11. (1) The department shall adopt such rules as are appropriate to carry out the provisions of this chapter. This authority includes, but is not limited to, the following subjects and sections or subsections of this chapter:

(a) Master application procedures under section 4(1) and (2) of this 1973 act.

(b) Application procedures under section 4(3) of this 1973 act.



(c) Notice procedures under section 5 of this 1973 act.

(d) Public hearing and final decision procedures under section 6(1), (2), and (3) of this 1973 act.

(e) A program, and procedures, including time requirements relating thereto, to guide local governments in the implementation of section 10(1) of this 1973 act.

(f) A listing of the various types of permits covered by this chapter together with the state agency issuing each such permit, and the statutory authority providing for such issuance.

(2) State agencies and local governments shall cooperate fully in the preparation implementation of rules authorized under this section and in otherwise carrying out the provisions of this chapter.

(3) Consistent with the procedural concepts for the processing of applications for permits established in sections 4 through 6 of this 1973 act, the department of ecology may, by rule, establish a permit application processing procedure which may be used, at the request of an applicant, in relation to two or more permit programs administered solely by the department of ecology.

NEW SECTION. Sec. 12. (1) The department shall establish permit requirements information centers in its office at Olympia and in all of its regional offices which shall provide information to the public, in readily understandable form, pertaining to the requirements of federal, state, and local governments for permits which must be acquired before initiating various types of activities and projects proposed in the state with special emphasis being given to those permits which apply to the use of land, air, and water resources.

(2) There shall be designated by each county, in a place convenient to members of the general public an office or offices for environmental permit applications. It shall be the responsibility of said office to provide a master application as provided in this chapter to any person requesting the same. It shall further be the responsibility of the office to provide reasonable assistance in preparation of an application to any person requesting the same and to accept for transmission to the department completed master applications. All completed master applications received by the county office shall be submitted to the department for processing as provided in sections 4 through 6 of this 1973 act. Filing of a master application with the county office shall constitute a submission to the department of ecology within the meaning of section 4(1) of this 1973 act. The department shall provide full information, forms, instructions, and other assistance relating to master applications and the other features of the program of this chapter to each county office to insure the provisions of this section are made fully effective in serving those desiring to file

master applications under this chapter.

NEW SECTION. Sec. 13. The department, after consultation with other state agencies and local governments, shall submit to the legislature by January 1, 1975, a report setting forth the results of the experience under this chapter together with any recommendations and views pertaining to ways and means of improving the procedures and otherwise satisfying the purposes of this chapter.

NEW SECTION. Sec. 14. (1) If any part of this chapter shall be found in conflict with federal requirements which are a condition precedent to the allocation of federal funds authorized to the state, such conflicting part of this chapter is declared to be inoperative to the limited extent of such conflict and with respect to the agencies directly affected, and such findings or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned.

(2) The department of ecology, to the limited extent necessary to comply with procedural requirements of federal statutes relating to permit systems operated by the state, may modify the notice, timing, hearing and related procedural matters provided in this chapter.

NEW SECTION. Sec. 15. The rule of strict construction shall have no application to this 1973 act and it shall be liberally construed in order to carry out its purposes.

NEW SECTION. Sec. 16. This 1973 act shall be known as the Environmental Coordination Procedures Act of 1973.

NEW SECTION. Sec. 17. There is added to Title 90 RCW a new chapter to read as set forth in sections 1 through 15 of this 1973 act.

NEW SECTION. Sec. 18. This 1973 act shall take effect on January 1, 1974, except that the department, state agencies, and local governments are authorized to take such steps as are necessary prior to that date to insure that this 1973 act is properly implemented on its effective date.

NEW SECTION. Sec. 19. If any provision of this 1973 act or its application to any person or circumstance is held invalid the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 20. The department of ecology shall determine the amount of moneys necessary to implement the responsibilities vested in it under the provisions of this chapter, including amounts to assist local governments under section 12(2) of this 1973 act, and report said determination to the president of the senate and the speaker of the house of representatives not later than

June 30, 1973.

Passed the House April 12, 1973.

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CHAPTER 186

[ House Bill No. 766 ]

LEGEND DRUGS--

REGULATION

AN ACT Relating to legend drugs; creating a new chapter in Title 69 RCW; repealing section 22, chapter 38, Laws of 1963, section 3, chapter 71, Laws of 1967 and RCW 69.40.064; repealing section 2, chapter 33, Laws of 1970 ex. sess. and RCW 69.40.065; and prescribing penalties.

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

NEW SECTION. Section 1. As used in this chapter:

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner; or

(b) The patient or research subject at the direction of the practitioner.

(2) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship.

(3) "Dispense" means to deliver a legend drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(4) "Dispenser" means a practitioner who dispenses.

(5) "Distribute" means to deliver other than by administering or dispensing a legend drug.

(6) "Distributor" means a person who distributes.

(7) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

(c) Substances (other than food) intended to affect the