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**SUBSTITUTE HOUSE BILL 2106**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** House Committee on Natural Resources (originally sponsored by Representatives Sump, Doumit and Pearson)

Read first time . Referred to Committee on .

1 AN ACT Relating to extending the time for the forest practices  
2 board to complete rule making required to implement the forests and  
3 fish report; amending RCW 76.09.370 and 76.09.055; and declaring an  
4 emergency.

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

6 **Sec. 1.** RCW 76.09.370 and 1999 sp.s. c 4 s 204 are each amended to  
7 read as follows:

8 (1) The legislature finds that the process that produced the  
9 forests and fish report was instigated by the forest practices board,  
10 the report is the product of considerable negotiations between several  
11 diverse interest groups, and the report has the support of key federal  
12 agencies. When adopting permanent rules under this section, the forest  
13 practices board is strongly encouraged to follow the recommendations of  
14 the forests and fish report, but may include other alternatives for  
15 protection of aquatic resources. If the forest practices board chooses  
16 to adopt rules under this section that are not consistent with the  
17 recommendations contained in the forests and fish report, the board  
18 must notify the appropriate legislative committees of the proposed  
19 deviations, the reasons for the proposed deviations, and whether the

1 parties to the forests and fish report still support the agreement.  
2 (~~The board shall defer final adoption of such rules for sixty days of~~  
3 ~~the legislative session to allow for the opportunity for additional~~  
4 ~~public involvement and legislative oversight.~~)

5 (2) The forest practices board shall follow the regular rules  
6 adoption process contained in the administrative procedure act, chapter  
7 34.05 RCW, when adopting permanent rules pertaining to forest practices  
8 and the protection of aquatic resources except as limited by subsection  
9 (1) of this section. The permanent rules must accomplish the policies  
10 stated in RCW 76.09.010 without jeopardizing the economic viability of  
11 the forest products industry.

12 (3) The rules adopted under this section should be as specific as  
13 reasonably possible while also allowing an applicant to propose  
14 alternate plans in response to site-specific physical features.  
15 Alternate plans should provide protection to public resources at least  
16 equal in overall effectiveness by alternate means.

17 (4) Rule making under subsection (2) of this section shall be  
18 completed by (~~June 30~~) October 1, 2001, and shall have an effective  
19 date of March 15, 2002, unless the legislature takes some action to  
20 forestall the effectiveness of the rules.

21 (5) The board should consider coordinating any environmental review  
22 process under chapter 43.21C RCW relating to the adoption of rules  
23 under subsection (2) of this section with any review of a related  
24 proposal under the national environmental policy act (42 U.S.C. Sec.  
25 4321, et seq.).

26 (6) After the board has adopted permanent rules under subsection  
27 (2) of this section, changes to those rules and any new rules covering  
28 aquatic resources may be adopted by the board but only if the changes  
29 or new rules are consistent with recommendations resulting from the  
30 scientifically based adaptive management process established by a rule  
31 of the board. Any new rules or changes under this subsection need not  
32 be based upon the recommendations of the adaptive management process  
33 if: (a) The board is required to adopt or modify rules by the final  
34 order of any court having jurisdiction thereof; or (b) future state  
35 legislation directs the board to adopt or modify the rules.

36 (7) In adopting permanent rules, the board shall incorporate the  
37 scientific-based adaptive management process described in the forests  
38 and fish report which will be used to determine the effectiveness of  
39 the new forest practices rules in aiding the state's salmon recovery

1 effort. The purpose of an adaptive management process is to make  
2 adjustments as quickly as possible to forest practices that are not  
3 achieving the resource objectives. The adaptive management process  
4 shall incorporate the best available science and information, include  
5 protocols and standards, regular monitoring, a scientific and peer  
6 review process, and provide recommendations to the board on proposed  
7 changes to forest practices rules to meet timber industry viability and  
8 salmon recovery.

9 **Sec. 2.** RCW 76.09.055 and 2000 c 11 s 4 are each amended to read  
10 as follows:

11 (1) The legislature finds that the declines of fish stocks  
12 throughout much of the state require immediate action to be taken to  
13 help restore these fish runs where possible. The legislature also  
14 recognizes that federal and state agencies, tribes, county  
15 representatives, and private timberland owners have spent considerable  
16 effort and time to develop the forests and fish report. Given the  
17 agreement of the parties, the legislature believes that the immediate  
18 adoption of emergency rules is appropriate in this particular instance.  
19 These rules can implement many provisions of the forests and fish  
20 report to protect the economic well-being of the state, and to minimize  
21 the risk to the state and landowners to legal challenges. This  
22 authority is not designed to set any precedents for the forest  
23 practices board in future rule making or set any precedents for other  
24 rule-making bodies of the state.

25 (2) The forest practices board is authorized to adopt emergency  
26 rules amending the forest practices rules with respect to the  
27 protection of aquatic resources, in accordance with RCW 34.05.350,  
28 except: (a) That the rules adopted under this section may remain in  
29 effect until the effective date of the permanent rules (~~are adopted,~~  
30 ~~or until June 30, 2001, whichever is sooner~~); (b) notice of the  
31 proposed rules must be published in the Washington State Register as  
32 provided in RCW 34.05.320; (c) at least one public hearing must be  
33 conducted with an opportunity to provide oral and written comments; and  
34 (d) a rule-making file must be maintained as required by RCW 34.05.370.  
35 In adopting the emergency rules, the board is not required to prepare  
36 a small business economic impact statement under chapter 19.85 RCW,  
37 prepare a statement indicating whether the rules constitute a  
38 significant legislative rule under RCW 34.05.328, prepare a significant

1 legislative rule analysis under RCW 34.05.328, or follow the procedural  
2 requirements of the state environmental policy act, chapter 43.21C RCW.  
3 The forest practices board may only adopt recommendations contained in  
4 the forests and fish report as emergency rules under this section.

5 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
6 preservation of the public peace, health, or safety, or support of the  
7 state government and its existing public institutions, and takes effect  
8 immediately.

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