
Agriculture & Natural Resources
Committee

HB 1710

Brief Description: Limiting appeals related to the harvest of damaged forest products.

Sponsors: Representatives Kretz, Blake, Schmick, Short and Condotta.

Brief Summary of Bill

- Exempts the sale of fire-damaged timber on state lands from compliance with the State Environmental Policy Act.
- Exempts the sale of fire-damaged timber on state lands from review under the Administrative Procedure Act and the forest practices rules.

Hearing Date: 2/14/17

Staff: Robert Hatfield (786-7117).

Background:

State Trust Lands.

The Department of Natural Resources (DNR) manages 5.6 million acres of forest, range, agricultural, aquatic, and commercial lands for the people of Washington. The DNR manages approximately 2.3 million acres of forested state trust lands. Under a mix of authorities, including state law, the state Constitution, and the state's federal Enabling Act, these state trust lands are held by the state for specified trust beneficiaries. In total, there are 18 trust beneficiaries that derive some level of economic benefit from the management of these trust lands. The beneficiaries include common schools, the state universities, community colleges, counties, and the state's Capital Budget.

Board of Natural Resources.

The Board of Natural Resources (Board) sets policies to guide how the DNR manages the state's lands and resources. The Board was formed with the DNR and was created in 1957. The Board

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has several responsibilities: (1) approve or disapprove trust land timber and mineral sales; (2) establish the sustainable harvest level for forested trust lands; (3) approve or disapprove sales or exchanges of trust lands; and (4) guide the DNR's stewardship of state Natural Area Preserves, Natural Resources Conservation Areas, and aquatic or submerged lands.

State Lands-Salvage of Damaged Materials.

When the DNR finds certain valuable materials on state lands that have been damaged, the DNR must consider whether it is in the best interest of the DNR's trust obligations to salvage the damage material. If salvaging the damaged valuable material is in the best interest of the trust, the DNR must offer the materials for sale.

Forest Practices Applications.

A forest practices application (FPA) must be approved by the 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 Pollution Control Hearings Board.

The Pollution Control Hearings Board (PCHB) is an administrative appeals board with jurisdiction to hear appeals of certain decisions, orders, and penalties issued by certain state agencies. These include the DNR for FPAs. Parties aggrieved by a PCHB decision may obtain subsequent judicial review in superior court.

The Administrative Procedure Act.

The Administrative Procedure Act (APA) sets the process that state agencies must use when the agency takes administrative action. Individuals appealing agency actions must generally exhaust their administrative remedies with the agency prior to seeking judicial review in superior court. Agencies offer administrative hearings that are quasi-judicial to hear appeals of agency actions. Administrative hearings adjudicate appeals by interpreting agency policy and regulations. Adjudication resembles what a court does but it is less formal. Adjudicative proceedings determine legal rights, duties, or privileges when a hearing is required by law or by the Constitution.

The State Environmental Policy Act.

The State Environmental Policy Act (SEPA) establishes a review process for state agencies and local governments to identify possible environmental impacts that may result from non-exempted government actions. The actions include 'project' actions involving decisions on specific projects, such as the issuance of a permit, and 'nonproject' actions involving decisions on policies and plans, including the adoption of land use plans and regulations. The information collected through the SEPA review process may be used to change a proposal to mitigate likely impacts, or to condition or deny a proposal when adverse environmental impacts are identified.

Summary of Bill:

The DNR's decision to salvage and sell perishable fire-damaged timber is final, is not subject to appeal, either to superior court under the Administrative Procedure Act or to the Pollution Control Hearings Board under the forest practices rules, and may not be the basis for any civil cause of action.

The sale of perishable fire-damaged timber is unlikely to result in significant adverse impacts to the environment and is therefore not subject to the requirements of the State Environmental Policy Act. Decisions related to the sale of perishable fire-damaged timber, including decisions on forest practice applications and decisions related to the construction of temporary roads, are also exempt from review under the State Environmental Policy Act.

Perishable fire-damaged timber is defined to mean timber and associated forest products that have been damaged by wildfire on any state lands, and that are likely to diminish in market value if not harvested promptly.

Appropriation: None.

Fiscal Note: Available.

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