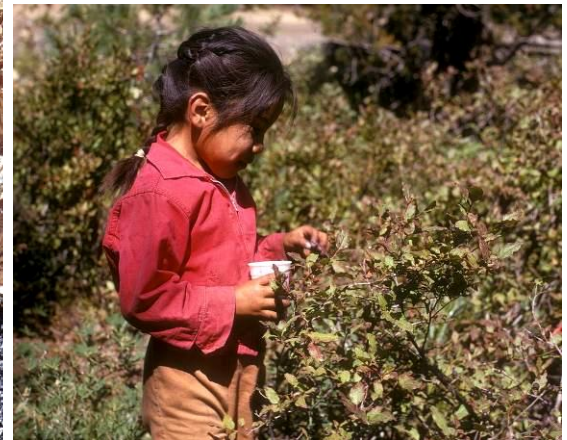
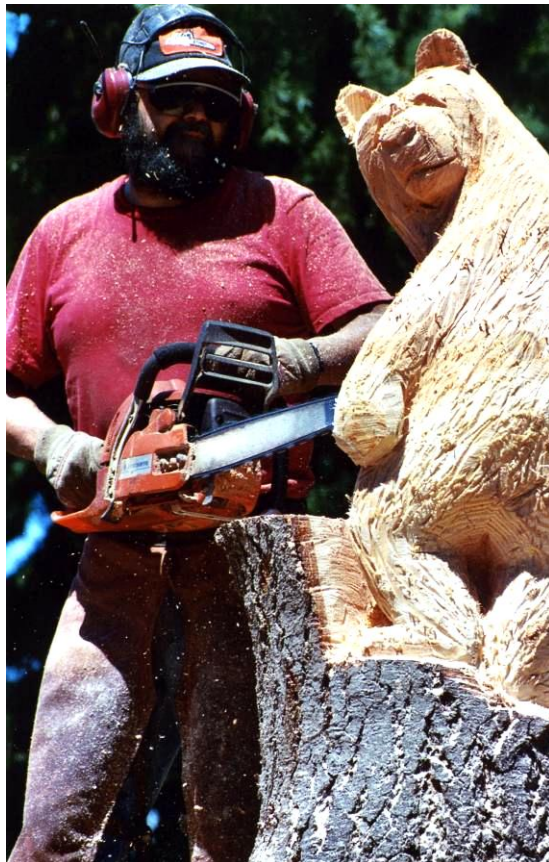




Report to the Legislature: Recommendations of the Specialized Forest Products Work Group

December 2008



Cover photos. *Lower left*: Joaquin Quezada carving a bear from a fir log (PHOTO: Creative Wood Sculptures). *Lower right*: A child from the Yakama Nation picking huckleberries (PHOTO: Frank Duran, US Forest Service). *Lower right top*: A worker assembling a decorative holiday swag from noble fir and cedar boughs (PHOTO: DNR Product Sales and Leasing Division). *Upper left*: Woman harvesting wild mushrooms. (PHOTO: Frank Duran / US Forest Service). *Upper right bottom*: A set of gavels and pens made from a maple tree harvested near the Governor's mansion (PHOTO: Larry Miller / Wood Turners of Olympia). *Upper right top*: Wild chanterelle mushrooms. (PHOTO: DNR Product Sales and Leasing Division).



January 12, 2009

Dear Members of the Legislature,

I am pleased to present you with the final recommendations of the Specialized Forest Products Work Group. This group was convened in November of 2007 to begin the work of developing recommendations to improve the Specialized Forest Products Law (RCW 76.48). Over the course of the last 40 years this law has been amended numerous times as conditions have changed and new uses for wood have developed and new products have required regulation. This piecemeal approach has left the law a ragged patchwork. As directed by SHB 1909 the Specialized Forest Products Work Group has developed recommendations and proposed legislation to address these problems.

SHB 1909 directed the work group to "...review the current specialized forest products statute, chapter 76.48 RCW...and make recommendations...to ensure that the specialized forest products requirements:

- Provide reasonable tools for law enforcement,
- Reasonably protect landowners from theft;
- Are not unduly burdensome to harvesters, those possessing or transporting specialized forest products, or cedar or specialty wood processors or buyers;
- Are clear and may be readily understood by law enforcement and the public;
- And are administered and enforced consistently throughout the state."

The recommendations that this group have developed accomplish these goals. As the work group members began deliberating, they quickly found that it was a difficult task because the issues are complicated, interwoven and emotionally charged. Each section of the law required a tremendous amount of dialogue as even small changes could have far reaching and unintended consequences. This report contains both their full recommendations and the language of a suggested re-write of this statute which you will soon have the chance to consider as House Bill 1038.

The work group consisted of 15 members representing law enforcement, industry, landowners, and hobbyists. They quickly concluded that to be successful, they must develop solutions that would meet the needs of all interests around the table so they chose to work through a consensus approach. Their hard work has resulted in a list of recommendations that have not only been thoroughly vetted but received the approval of the diversity of stakeholders that participated on the work group.

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Page 2 of 2

I urge to you to carefully review the recommendations put forth by this group. This is a significant industry in Washington State and the law that regulates it warrants careful consideration. I also urge you to support House Bill 1038 which represents the culmination of this group's recommendations. Lastly, please join me in congratulating Representative Orcutt and the specialized forest products work group for a job well done. I am inspired by the commitment and dedication they showed to this difficult and exhausting process that took them away from their normal work and livelihoods. They are to be commended for their efforts.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doug Sutherland". The signature is written in a cursive style with a large, sweeping initial "D".

Doug Sutherland
Commissioner of Public Lands

Report to the Legislature: Recommendations of the Specialized Forest Products Work Group

December 2008



WASHINGTON STATE DEPARTMENT OF
Natural Resources
Doug Sutherland - Commissioner of Public Lands

This Report is humbly dedicated to the memory of Kristine Fairbanks in honor of her indomitable spirit, dedication to public service and commitment to the natural resources she spent her career protecting.



Kristine Fairbanks
1957 - 2008

Acknowledgements

Washington State Department of Natural Resources

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Picture 1: Bear grass in the field (left) and as it is being processed for shipment (right). PHOTOS: Frank Duran / US Forest Service



I. Executive Summary

1. The work group recommends that the statute (76.48 RCW, concerning specialized forest products) should be reorganized and rewritten to make it more easily understood.
2. The work group recommends that new definitions of specialized forest products be added, others removed or clarified to make them clearer, and exemptions be provided for those materials that are not a concern for theft.
3. The work group recommends that a verifiable permit system be adopted in addition to the existing system of pre-validated permits. Additionally, the group recommends:
 - a. That these permits be mailed to the sheriff's office and postmarked within five days of harvest and that sheriff's offices keep a file of these permits. (see Appendix F: Table of Counties That Issue Specialized Forest Products Permits)
 - b. That permittees be required to attach a statement from the county assessor's office demonstrating that the permittor is the owner of the property where the harvest is to occur.
 - c. That the verifiable permit be made available via the internet at such time as the financial resources become available.
4. The work group recommends that the exemption for products harvested concurrently under a valid forest practices application be expanded to include cut or picked evergreen foliage.
5. The work group recommends that the State significantly increase the level of education and outreach about this statute so that those whom it regulates are aware of the statutes and can comply with it.
6. The work group recommends that the harvest, transport, or possession of less than 20 pounds of cut or picked evergreen foliage would not require a permit (as currently outlined in 76.48.060).
7. The work group recommends that additional information be required on a validated specialized forest products permit. See page 14 for the full list.

-
8. The work group recommends that the exemptions for non-commercial maintenance of property and rights of way be amended to better reflect the intent of the statute.
 9. The work group recommends that the statute sections dealing with seizure and confiscation be amended to more clearly state when and under what circumstances property can be detained or seized, disposed of or returned.
 10. The work group recommends that alder logs up to 36 feet in length should be included in the statute.
 11. The work group recommends that specialized forest products buyers provide documentation on bills of lading, sales invoices and use authorizations that provide law enforcement with information that will assist them during their investigations. Further, these documentation requirements should be more consistent across segments of the industry.
 12. The work group recommends that each specialized forest products buyer of specialty wood be required to display their master business license issued by the Department of Licensing.
 13. The work group recommends that it become a Class C Felony to knowingly produce false documents when selling specialized forest products.
 14. The work group recommends that a judge's authority to revoke a convicted person's ability to legally obtain a permit be highlighted and recommended when the person is shown to be a repeat offender of this statute.



Picture 2: Washington specialty woods. *Left:* Various turned items from a big leaf maple harvested from the Governor's Mansion (photo courtesy of Larry Miller, Olympia Wood Turners). *Middle:* Artistic carvings from a variety of woods (photo courtesy of Joaquin and Donna Quezada, Creative Wood Sculptures). *Right:* 'Quilted Maple,' a particular variety of big leaf maple wood prized for its characteristic rippled appearance (photo courtesy of Patti Case, Green Diamond Resources).

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15. The work group recommends that when specialized forest products are imported into Washington they be accompanied by a properly filled out bill of lading or documentation issued by another state, Canadian province or the federal government indicating the origin of those products.
 16. The work group recommends that permits should expire on December 31 of the year in which they were issued.
 17. Other recommendations including removing Scot's Broom from the statute, and various other minor changes. See page 20 for a complete list.

II. Introduction and Background

In 2007, the Washington Legislature passed Substitute House Bill 1909 (see Appendix A), sponsored by Representative Ed Orcutt (R. 18th District), relating to specialized forest products. The bill amended the specialized forest products law, RCW 76.48, and called for two work products by the Washington State Department of Natural Resources (DNR). One, an assessment of the state of wild huckleberries has been completed and produced under separate cover. The other, from Section 2 of the bill, was the establishment of a Specialized Forest Products Work Group to review the current situation regarding specialized forest products and make recommendations for legislative action. This report complies with the direction related to the Specialized Forest Products Work Group.



Picture 3: A silver fir from Washington State being erected in front of the U. S. Capitol in Washington D.C. Photo: Mark Savage / DNR

The harvest and sale of specialized forest products is a significant industry in Washington State. Some have estimated conservatively that product sales exceed \$100 million per year and much of this is exported. It is difficult to accurately estimate the actual size of the industry or the number of jobs that it sustains because much of this activity is considered informal or underground. The US Forest Service alone estimates the wholesale value of specialized forest products harvested from its lands in 2007 at \$27 million. The demand for specialized forest products (also called non timber forest products or NTFP) has increased over the last 20 years which “...has been accompanied by calls for increased regulation of NTFP harvesting and commerce¹.”

The specialized forest products law was first enacted in 1967, and has been amended numerous times over the years. The purpose of that law has remained the same: “to protect a great natural resource and to provide a high degree of protection to the landowners of the State of Washington from the theft of specialized forest products.” The original list of specialized forest products covered by the law included Christmas trees, cedar, cascara bark, and

¹ “Incorporating Understanding of Informal Economic Activity in Natural Resource and Economic Development Policy” by Rebecca J. McLain, Susan J. Alexander, and Eric T. Jones. General Technical Report PNW-GTR-755, June 2008.

native ornamental shrubs. Over the years, items such as wild edible mushrooms, bear grass, and specialty wood have been added to the definition. The law was originally created and has been amended in response to evolving economic interest in products from Washington's forests other than timber. This economic interest has waxed and waned over the years, has shifted from one product to another, and inevitably has led to concerns over illegal harvesting. For example, landowner and law-enforcement concern with illegal harvesting focused on cedar in the 1970s and floral greens in the 1990s. The specialized forest products law, RCW 76.48 was created, amended or expanded in response to these concerns.

The concerns leading to passage of SHB 1909 arose as a result of amendments to the law in 2005. The 2005 amendments were intended to address concerns of large and small forest landowners about the theft and/or damage to big leaf maple and Sitka spruce trees in response to economic demand for wood for musical instruments and ornamental boxes. The 2005 law created new requirements for possessing and transporting broadly defined "specialty wood." Well-publicized cases occurred of law abiding citizens running afoul of the new law and being caught up in the criminal justice system. Calls for legal clarification ensued.

Simultaneously, increased commercial pressure on Washington's huckleberry resources were being felt, especially on National Forest lands in the Mt. Adams area. In this case, Native American huckleberry gatherers, exercising culturally important traditions, were feeling pressure from increasing numbers of commercial pickers competing for the same berry fields and in many cases using rakes or mechanical beaters which can damage huckleberry bushes. Some berry-gathering areas set aside for traditional cultural use were being harvested by non native pickers in advance of the time period designated for exclusive Native American use.

SHB 1909 was intended to address both of these concerns. The legislature expected the Specialized Forest Products Work Group to arrive at workable solutions that could be enacted into law to clarify the provisions that were leading to problems. Specifically, Section 2 of SHB 1909 calls for the work group to "review the current specialized forest products statute . . . as well as applicable theft laws. The Specialized Forest Products Work Group must evaluate the statute, as well as its application, and make recommendations, if any, to ensure that the specialized forest products requirements:

- Provide reasonable tools for law enforcement and reasonably protect landowners from theft;
- Are not unduly burdensome to harvesters, those possessing or transporting specialized forest products, or cedar or specialty wood processors or buyers;
- Are clear and may be readily understood by law enforcement and the public; and
- Are administered and enforced consistently throughout the state."

The work group is to be staffed by DNR, and was to provide a report to the legislature containing its recommendations, as well as draft legislation implementing its recommendations, by December 1, 2007. An initial report was published in February 2008 but because of the complex nature of the issues, no recommendations or proposed legislation were agreed to by this preliminary work group. In addition, the principal DNR staff member assigned to the work group retired just prior to December 1, 2007. This combination of circumstances resulted in the preliminary report containing primarily recommendations for continuing work group discussions.

The work group reconvened in April 2008 with the assistance of a facilitator, a renewed group charge, a defined set of meeting processes, and a revised membership. Membership of the final work group included representation from law enforcement, industry, and labor. The work group met every three weeks until November 13, 2008. See Appendix B for the final membership list, attendance record of members, meeting schedule and all pertinent process documents.

The group decided to work via a consensus-based process and all decisions were made by consensus. In order to take conceptual-level agreements and translate them into draft policy, Jason Callahan, Counsel to the House Agriculture and Natural Resources Committee began attending meetings of the work group at the invitation of Representative Orcutt to assist it in drafting the policy recommendations.



Picture 4: Salal in the field (left) and being processed for shipment (right). PHOTOS: Frank Duran / US Forest Service and Mark Savage / DNR



III. Summary of Problems with the Statute

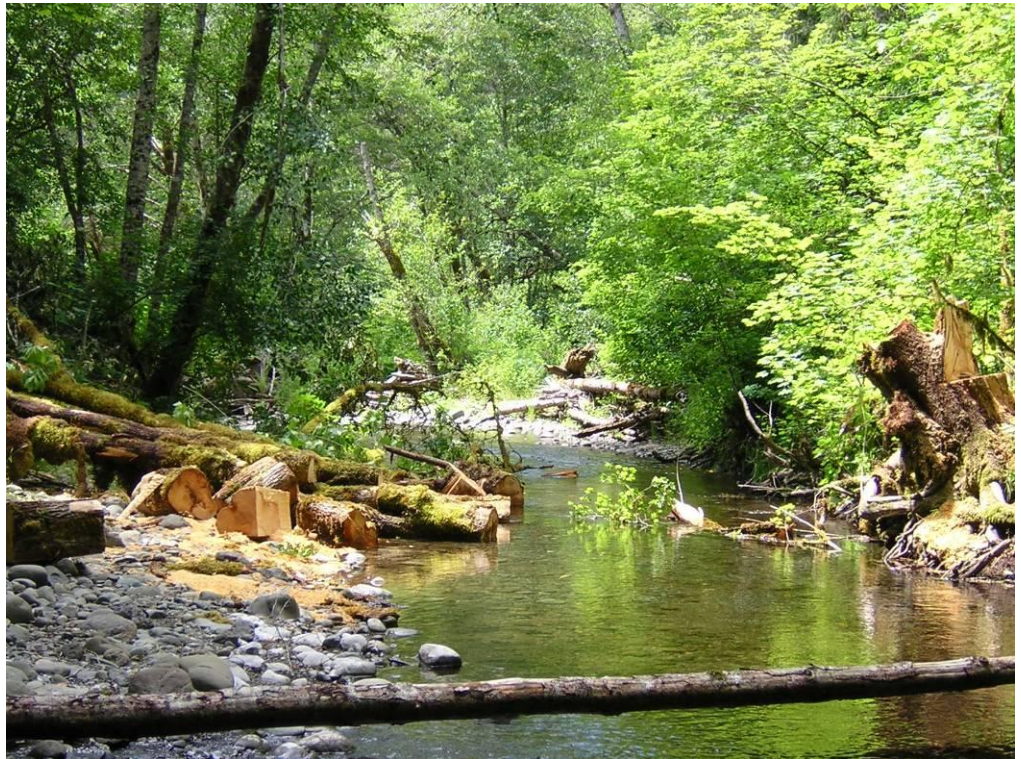
To help frame the work of the group, one of its early tasks was to identify and accurately characterize the problems with the current statute. Following is a list of problems that the group identified:

1. Problems related to the structure of the statute:
 - a. 76.48 RCW has a long history and additions have been made over the years in a patchwork fashion.
 - b. It has been reported that some law enforcement officials have found the law confusing to interpret.
 - c. All sections of the law need to be read to understand all the requirements.
2. Problems related to the scope and applicability of the statute:
 - a. The scope of 76.48 RCW changes as new resources are added to the list of specialized forest products.
 - b. The definition of “specialty wood” is overly inclusive.
 - c. The regulated quantities specified in the law apply to a large number of unaware citizens.
 - d. The law currently applies to wood carvers, or even firewood cutters carrying wood that’s been given to them.
 - e. The law currently applies to wood carvers and turners and includes wood that may have been in their possession for many years.
 - f. There is a potential for property, including vehicles, being confiscated from law-abiding citizens.
 - g. The law appears to some to infringe on property rights.
3. Problems related to multiple jurisdictions:
 - a. With overlapping jurisdiction, it’s not clear “who’s in charge.” There’s no central point of contact for information or oversight of administration of the law.
 - b. There’s an appearance of inconsistent administration of the permitting and administration of this law across counties.
 - c. DNR’s proprietary program can’t legally administer this program, and it appears to be more of a general regulation

against theft than an agency-specific regulatory program like forest practices.

4. Problems related to the specific requirements of the law and its administration:
 - a. Some potential permittees feel the complex permit system is logistically cumbersome, especially for individuals. It's hard to get permits and the paperwork requirements are difficult to understand.
 - b. The law is confusing about what requirements apply at what points in the chain of possession, such as requirements relating to a bill of lading.
 - i. Buyers/processors are unable to obtain the "Certificate of Registration" (referred to in the law section 76.48.098) from the Department of Revenue because it no longer is available.
 - c. Enforcement officials feel there's not enough information required by the statute in the record-keeping section of the law regarding buyers, which makes investigation difficult.
 - d. A separate federal permit is required for harvesting products from US Forest Service land. Permit requirements are unclear once harvesters move off of federal land.
 - e. Scot's broom (also known as Scotch Broom) should be removed from the statute since it is a noxious weed.
 - f. The quantities specified in the statute should be examined for their validity as feasible minimums. It also does not specify the species by including the Latin names of the plants specifically referenced.
5. Problems related to enforcement and effectiveness of the law:
 - a. Law enforcement agencies are concerned that the law is an unfunded mandate.
 - b. There's a perception of inconsistent enforcement across counties.
 - c. The lack of a specific U.S. Forest Service regulation governing huckleberry harvest is seen as a problem.
 - d. Some have the perception that the law is not preventing theft of resources. Inadequacies of the permit system are serving as a means to cloak illegal activities.
6. Problems related to the diversity of individuals and organizations involved with specialized forest products
 - a. As products are added to the list of specialized forest products, new populations are brought under the law's purview.
 - b. Cultural and language issues exist with regard to immigrant populations involved in harvest and buying.

-
- c. Cultural issues exist with regard to Native Americans and their treaty gathering rights.
 - d. There's a gray area between commercial and recreational harvesters, with some harvesters falling in between.
 - e. Legal and illegal harvesters are comingled on the forest road system, under common scrutiny under the law.
 - f. There's a perceived disparity of organizational capacity among different industry interests particularly immigrant populations which leads to under-representation.
7. Problems related to the geographic focus of the law:
- a. Enforcement at the point of harvest is lacking due to logistic difficulties.
 - b. Some feel there should be more focus on the point at which the specialized forest product is purchased by the first buyer.



Picture 5: Streamside theft. Here a large maple tree was illegally harvested and cut into blocks. This highlights that much of the theft is occurring in protected riparian areas. PHOTO: Patti Case / Green Diamond Resources



IV. Summary of Recommendations of the Specialized Forest Products Work Group

- 1. The work group recommends that the statute should be reorganized and re-written to make it more easily understood.**

The full text of the recommended re-write of this statute can be found in Appendix D. This is the 4th and final draft that the work group reviewed and finally approved. It is the sum total of the group's 14 days of meetings which took place over the course of 14 months.

- 2. The work group recommends that the definitions of specialized forest products in the statute be updated to make them clearer and exempt those materials that are not a concern for theft. Following is a summary of major work group recommendations to the definitions sections:**

- Clarify the definition and role of specialized forest products buyers by adding definitions for "first specialized forest products buyers" and "secondary specialized forest products buyer."
- Add a definition for "artistic cedar products."
- Remove the definition of "cedar processor" in favor of a more inclusive definition of "specialty wood processor."
- Include a new definition of "cedar products" that is more inclusive of the products requiring protection and which negates the need for a separate definition for "cedar salvage."
- Revise the definition of "harvest."
- Add common names to the Latin names of the huckleberry species that are currently listed.
- Remove the definition of "permit area" which is not used in the statute.
- Add definitions of "permittee" and "permittor", the latter to replace "landowner" which is less precise but is currently used in statute.

-
- i. Enhance the definition of the term “processed cedar product” to make it more descriptive and complete. Exempt these products from the statute to reduce the risk to law abiding citizens who could inadvertently be out of compliance with the statute.
 - j. Add a definition of “sales invoice” which is undefined but mentioned repeatedly throughout the current statute.
 - k. Enhance the definition of “specialized forest product.” Most importantly, this definition is recommended to include minimum quantities requiring regulation.
 - l. Simplify the definition of “specialized forest products permit.”
 - m. Provide a more precise definition of “specialty wood” that reflects the minimum sizes required by the market.
 - n. Simplify the definition of “true copy.”
 - o. Add definitions for “validated” and “verifiable” permits.

3. The work group recommends that a verifiable permit system be adopted in addition to the existing system of prevalidated permits. Additionally, the group recommends:

- a. That these permits be mailed to the county sheriff’s office and postmarked within five days of harvest and that sheriff’s offices keep a file of these permits.
- b. That permittees be required to attach a statement from the county assessor’s office that demonstrates that the permittor is the owner of the property where harvest is to occur.
- c. That DNR make the verifiable permit available via the internet at such time as the financial resources become available.
- d. That the parcel number of the area where the harvest will occur also be mandatory on verifiable permits unless the permittor lives on the property and it is less than one acre in size in which case the address of the permittor will suffice.

Some in the specialized forest products industry including wood carvers, crafters and some specialty wood processors find that a pre-validated system is unduly burdensome. This is due to the time and travel required to obtain the form, signatures and approvals that must be in place prior to harvest. This is particularly true for businesses that buy small lots of wood from many different sources. The time delay can result in the degradation of the quality of the products (many of

which are perishable) or erode profits through high costs. Also, some sheriff's offices issue these permits so infrequently that they are unfamiliar with the statute or do not issue them at all. This leaves the law-abiding citizen unable to follow the law.

The verifiable permit overcomes these problems. As envisioned by the work group it would be a uniquely numbered document that would require the driver's license number of the landowner and the parcel number of the property where harvest is to occur². These two pieces of information allow law enforcement officers to verify that the permittor (the landowner) is an actual person (using the driver's license number) and that they indeed own the property where the harvest is to occur. It was intended that both pieces of information could easily be verified during a routine traffic stop. Many sheriffs' offices are unable to verify the parcel number in the field during non-business hours. To address this, the work group recommends that a statement from the county assessor's office must be attached to the verifiable permit to demonstrate that the permittor is indeed the owner of the property where harvest is to occur.

The advantages of a verifiable permit system are that it can be acquired very quickly without permittees or permittors losing profits in complying with the law. Because the verifiable permit would be easy to obtain, it would encourage compliance with the law. Another benefit of this system is that it would not replace the pre-validated permit system. Some landowners like the added security of the pre-validated permits which would still be available. The landowner may choose which permit he or she prefers.

The work group also considered a recommendation for making both the pre-validated and verifiable permits available online. This would have the benefit of maintaining a database of those using verifiable permits which would assist law enforcement, but would also make it infinitely easier for the public to obtain a permit. A web-based system, though technically feasible, would be expensive to develop and would then require ongoing funding for maintenance. Members of the work group recognized that this would be problematic given the budgetary downturn that the state is experiencing. Therefore, the work group recommends that a web-based permit system be implemented at such time the State has the necessary financial resources to develop and maintain it. It is felt by some members of the committee that a less expensive alternative would be useful until the full-blown database system could be funded. That alternative could consist of DNR providing the form in some universally accessible format (like Adobe's "Portable Document Format" or PDF) as a downloadable

² The group came to consensus on one exception, namely that an address could replace the parcel number if the permittor lived on the parcel and it was less than one acre in size. Since law enforcement may need to verify that the products actually exist on that parcel, this is a parcel size that can be easily assessed during a drive-by observation.

document coupled with the capability to assign a unique sequential number to each download.

- 4. The work group recommends that the exemption for products harvested concurrently under a valid forest practices application be expanded to include cut or picked evergreen foliage. The group further recommends that specialized forest products harvested under a Forest Practices Application (FPA) would be accompanied by a trip or load ticket, and the FPA number. Buyers of these products would be required to document (in addition to normal requirements) the forest practices permit number and the load ticket number.**

Currently, it is not lawful to harvest cut or picked evergreen foliage concurrently under an FPA without a specialized forest products permit. This recommendation would expand the exemption in 76.48 RCW for what products can be concurrently harvested under an FPA and clarifies the documentation that must accompany these products.

- 5. The work group recommends that the State significantly increase the level of education and outreach about this statute so those being regulated are aware of the rules. Furthermore, the group recommends:**
 - a. That funding for this effort come from a redirecting of monies collected as fines from convictions. Specifically, one third of the fines collected from the enforcement of this statute should be distributed to a special account created within DNR that would pay for education and outreach.

The full recommendations of the subcommittee on specialized forest products education and outreach can be found in Appendix C.

- 6. The work group recommends that the harvest, transport, or possession of less than 20 pounds of cut or picked evergreen foliage would not require a permit (as currently outlined in RCW 76.48.060).**

This increases the amount exempted from the current five pounds to 20 pounds. The group affirmed the thresholds for other products in RCW 76.48.060.

- 7. The work group recommends that additional information be required on or to accompany a validated specialized forest products permit:**
 - a. Specifically, up to three telephone numbers for the permittor and permittee, original signature of the permittee, and a copy of the permittee's valid state identification.

8. The work group recommends that the exemptions for non-commercial maintenance of property and rights of way be amended to better reflect the intent of the statute.

The group reached consensus that landowners harvesting, possessing or transporting specialized forest products for non-commercial purposes and in the process of conducting maintenance, should not be required to obtain permits. Also, government entities and utility companies or their agents should be exempted from needing permits when they are clearing rights of way and may harvest, possess or transport specialized forest products, such as cedar limbs during the course of their work.

9. The work group recommends that the statute sections dealing with seizure and confiscation be amended to more clearly state when and under what circumstances property can be detained or seized, disposed of or returned.

The rewrite combines parts of sections of RCW 76.48.075 and 76.48.110 into sections 20 and 21. The rewrite makes the circumstances and procedures surrounding the detaining and seizure of materials, tools, equipment, documentation and vehicles more explicit.

10. The work group recommends that alder logs up to 36 feet in length should be included in the statute.

This recommendation comes from the somewhat recent trend of the theft of high value alder logs, many from protected riparian areas, that are used in the manufacture of alder veneer. This length was chosen because often these logs are stolen in relatively small lots with pickup trucks. It was felt that a length of 36 feet would make the theft of these logs more difficult.

11. The work group recommends that specialized forest products buyers provide more documentation on bills of lading, sales invoices and use authorizations that allow them to comply with the law and provide law enforcement with useful information that will assist them during their investigations. Further, these documentation requirements should be more consistent across segments of the industry. Specifically, the work group recommends that “First” and “Secondary specialized forest products buyers” (see Appendix D for the new definition proposed) be required to document the following on bills of lading, sales invoices or authorizations:

- a. The date of the product's transportation.

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- b. The amount and type of specialized forest products being transported.
 - c. The name and address of the person receiving the specialized forest products.
 - d. The name and address of the specialized forest products buyer, specialty wood processor, or other person from whose land it is being transported.
 - e. The name of the driver transporting the specialized forest products.
 - f. The license plate number of the vehicle transporting the specialized forest product.

Note that anyone transporting specialized forest products in Washington would also need to ensure that a bill of lading with this information accompanied the load. This simple bill of lading provides a mechanism for groups like wood turning clubs to readily comply with the law. It is common for these groups to sell small lots of specialty wood at club meetings as a fundraiser. The purchaser of this wood in some cases would need this bill of lading to meet the requirements of this law.

The current statute requires that a permit accompany products from harvest to the point of first receipt, or when they are sold. The entity that buys these products from the harvester is required to record the seller's specialized forest products permit number. From this point forward, whenever these products are transported or sold wholesale, the seller is required to provide the buyer with the permit number under which each of the products were harvested. A simple example illustrates why this is problematic. If a seller is transporting a large load of maple block from many different sources the seller would currently have to have a bill of lading that provided a permit number for each block in the load. The blocks are indistinguishable from one another so to comply, sellers (and buyers) would have to employ rigorous accounting procedures to ensure that they could account for the origin of every product that they possess.

Consensus was reached on a new set of information that sellers would be required to provide on a bills of lading, sales invoices or authorizations that provide law enforcement with enough information to conduct investigations. Buyers of products would be required to store these documents for one year and make them available to law enforcement. Those producing falsified documents could be charged with a Class C felony.

12. The work group recommends that each specialized forest products buyer of specialty wood be required to display their master business license issued by the Department of Licensing.

The current statute requires buyers to display a registration certificate that, at one time, was issued by the Department of Revenue but which is now unavailable.

13. The work group recommends that it become a Class C Felony to knowingly produce false documents when selling specialized forest products.

There are some in this industry that repeatedly break this law. This amendment is sought to discourage repeat offenders by increasing the penalty they would face for knowingly producing false documents as a means of harvesting or selling specialized forest products.

14. The work group recommends that a judge's authority to revoke a convicted person's ability to legally obtain a permit be highlighted and recommended when they are shown to be repeat offenders of this statute.

Again, this recommendation is intended to act as an additional deterrent to repeat offenders of this law. This recommendation will provide landowners, counties and the U.S. Forest Service the ability to debar those that repeatedly break this law.

15. The work group recommends that when specialized forest products are imported into Washington they be accompanied by a properly completed bill of lading (as defined in Section 5 of the suggested rewrite of the statute) or other documentation issued by another state, Canadian province or the federal government indicating the origin of those products.

Currently, the statute says that when products are brought in from out of state the driver must obtain a specialized forest products permit from the sheriff's office of the county in which they are entering Washington. This has been an impossible requirement for county sheriff's offices to fulfill and these county sheriff's have refused to issue permits to imported loads of specialized forest products.

16. The work group, after a great deal of discussion, affirms that permits should expire on December 31 of the year in which they were issued.

17. Other recommendations:

- a. Remove Scot's broom (also known as Scotch Broom) and other noxious weeds from the statute.
- b. Change the exemption for non-wild mushrooms from "artificial" to "domestic."
- c. Common names should be added to definition and Latin names of the various species of huckleberries.
- d. In addition to the permit forms, DNR should provide web-based permit forms including sales invoice/authorization/bill of lading forms with adequate space for all of the required information to be entered, making it easy for buyers and sellers to comply with the law.
- e. That a few changes be made to the permit form: 1) that the word "harvest" be removed from the title of the permit and 2) two statements be added to the bottom of the permit emphasizing the consequences of knowingly using false or fraudulent documents. These statements are as follows: "It shall be unlawful to:
 - i. Sell products with the permit obtained at a location other than what is described on the permit or
 - ii. Obtain a permit for product from a parcel of property where that product does not exist."

APPENDICES

- A. Text of Substitute House Bill 1909**
- B. Work Group Meeting Schedule, Membership, Attendance Record, Charge and Meeting Processes**
- C. Charge of the Specialized Forest Products Work Group**
- D. Meeting Processes and Guidelines**
- E. Recommendations from the Subcommittee on Specialized Forest Products Education and Outreach**
- F. Counties That Issue Specialized Forest Products Permits**
- G. Recommended Rewrite of RCW 76.48**



Picture 6: A load of noble fir boughs being flown out to an awaiting truck. PHOTO: DNR Product Sales and Leasing Division



Appendix A: Selected Text of Substitute House Bill 1909 ³

AN ACT Relating to specialized forest products; amending RCW 76.48.130, 76.48.020, and 76.48.030; creating new sections; and providing expiration dates.

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

...NEW SECTION. **Sec. 2** (1) The specialized forest products work group is established. The work group must consist of appropriate representation from: The department of natural resources; county sheriffs; county prosecutors; industrial and small forest landowners; tribes; recreational and professional wood carvers; cedar and specialty wood processors; and other appropriate persons invited by the commissioner of public lands.

(2) The specialized forest products work group must review the current specialized forest products statute, chapter 76.48 RCW, as well as applicable theft laws. The specialized forest products work group must evaluate the statute, as well as its application, and make recommendations, if any, to ensure that the specialized forest products requirements: Provide reasonable tools for law enforcement and reasonably protect landowners from theft; are not unduly burdensome to harvesters, those possessing or transporting specialized forest products, or cedar or specialty wood processors or buyers; are clear and may be readily understood by law enforcement and the public; and are administered and enforced consistently throughout the state.

(3) The specialized forest products work group must be staffed by the department of natural resources.

(4) The specialized forest products work group must provide a report to the appropriate committees of the legislature containing its recommendations, as well as draft legislation implementing its recommendations, by December 1, 2007.

(5) This section expires July 1, 2008.

³ For full text of the entire statute see:
<http://apps.leg.wa.gov/billinfo/Summary.aspx?bill=1909&year=2007>

Appendix B: Work Group Meeting Schedule, Membership, Attendance Record, Charge and Meeting Processes

Member	Apr 16	May 8	May 28	Jun 18	Jul 9	Jul 30	Aug 20	Sep 10	Sep 26	Oct 1	Oct 10	Oct 22	Nov 3	Nov 13
Patti Case	X	X					X	X	X		X			X
Dawn Vyvyan											X	X	X	X
Bob Smith				X	X	X	X	X				X	X	X
Lana Massa	X	X	X	X	X	X	X	X	X	X	X	X	X	
Anne Minden and Kristine Fairbanks	X	X	X	X	X	X	X	X	X		X			
Frank Duran		X	X	X	X	X	X	X	X		X			X
Jed Herman			X			X	X					X		X
Larry Raedel	X	X	X		X	X	X	X	X	X	X	X		X
Stewart Menefee	X	X	X		X	X		X	X	X		X	X	X
Lt. Matthew Stowers	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Representative Ed Orcutt	X		X	X	X	X	X	X	X	X	X	X	X	X
Joaquin and Donna Quezada	X	X	X	X	X	X	X	X	X	X	X	X	X	X
John Merchant		X		X			X		X		X	X		X
Larry Miller		X	X		X	X	X		X	X	X	X	X	X
Mickie Postier	⁴	X	X			X	X ²	X	X	X	X	X	X	X
Leslie Hoare			X		X	X	X							

^{4.2} Regarding the April 16 meeting, Mrs. Postier was not yet a member of the group. On August 20 Tom Keller attend in her place.



Appendix C: Charge of the Specialized Forest Products Work Group

What is the mission of the specialized forest products work group (SFPWG)?

The mission of the SFPWG is to explore and make policy recommendations to the appropriate legislative committees on ways to improve the regulation of specialized forest products in Washington State such that:

- Law enforcement is provided with reasonable tools.
- Landowners are reasonably protected from theft.
- Requirements are not unduly burdensome to those:
 - Harvesting specialized forest products
 - Possessing specialized forest products
 - Transporting specialized forest products
 - Harvesting cedar
 - Possessing cedar
 - Transporting cedar
 - Harvesting specialty wood
 - Possessing specialty wood
 - Transporting specialty wood
- Special consideration is given to wood processors and buyers.
- The requirements are clear and may be readily understood by law enforcement and the public.
- The requirements are administered and enforced consistently throughout the state.

What are the commitments of the SFPWG?

Members of the work group should:

- Commit to actively participate and attend all meetings throughout the process.
- Agree to consider the interests of the other members of the work group and seek solutions to meet their needs.
- Agree to utilize a consensus-based decision making process.
- Meet with allied interests, not directly represented within the group, to share ideas and solicit input.
- Agree to represent the allied interests and be open to supporting consensus positions developed by the work group with those interests.
- Agree to work within the charge meeting processes agreed upon by the group.

What is the timeframe for results? When will this team disband?

- Policy recommendations should be developed by the end of August 2008. A final report will be prepared by the DNR group lead and will be due November 2008.

What resources are available to the team? How will the team get the information needed?

- DNR staff will support the group and facilitator throughout the process. The Group will receive background material from DNR staff and from other information sources as requested by the group. DNR resources have been committed to provide information to the group in a timely manner.

What time commitment is required of the work group participants?

- It is anticipated that the group will meet roughly every three weeks between April 17, 2008, and August 2008. Meetings will last four to six hours (usually 9 a.m. to 3 p.m.) including a working lunch. Participants will also be expected to review material provided to inform group discussions and decisions.

What are the limits on the group's authority to make decision?

- The mission of the SFPWG is to explore and make policy recommendations to the appropriate legislative committees on ways to improve the regulation of specialized forest products in Washington State.



Picture 7: A harvester and a few bales of bundled salal. PHOTO: DNR Law Enforcement Services



Appendix D: Meeting Processes and Guidelines

The Specialized Forest Products Work Group will meet on the following dates:

- May 8 & 28
- June 18
- July 9 & 30
- August 20

On meeting days, group members should block out times on their calendars between 9 a.m. and 3 p.m. Standard agendas will run from 9 a.m. to 1 p.m.; however, on a case by case basis, the extra two hours may be required to complete the group's work at that meeting. If a meeting is anticipated to utilize the full six hours, group members will be notified ahead of time.

The membership of the group is comprised of the following representatives:

- Wood sculptors: Donna and Joaquin Quezada
- Wood turners: John Merchant and Larry Miller
- US Forest Service: Anne Minden, Kris Fairbanks, Frank Duran
- DNR: Jed Herman, Larry Raedel
- Washington Association of Prosecutors: Stewart Menefee
- Washington Sheriff's Association: Matt Stoners
- Washington State Legislature: The Honorable Representative Ed Orcutt
- Washington Farm Forestry Association: Bob Bower
- Specialized forest products picker or harvester: Bob Smith
- Buyer of floral greens & boughs: Mickie Postier
- Specialty wood buyer: Lana Massa
- Large landowner: Patti Case, Green Diamond
- Native American Tribes: Dawn Vyvyan, Yakama Nation

DNR will provide a facilitator, Wade Alonzo (wade.alonzo@dnr.wa.gov (360) 902-1013), and committee staff members, Priscilla Hoback (Priscilla.hoback@dnr.wa.gov (360)-902-1593 and Jana Greer (jana.greer@dnr.wa.gov (360) 902-1730), to assist the group complete its work.

The work group is comprised of people with a variety of perspectives and interests. Differences of opinion are to be expected and will be respected by the committee and its members.

The group is being encouraged to think creatively about potential policy recommendations for the future of the regulation of specialized forest products. As issues are being debated, members are encouraged to focus on interests as opposed to proposals in order to move toward the best possible solutions.

It is understood that the group members may not make commitments on behalf of their respective organizations, however, each member will work hard to understand any issues or concerns raised by their organizations and will communicate those issues in a timely fashion to the full group.

All meetings will be open to the public and members of the public are encouraged to attend. Agendas from the work group will include time for public comment. During the meeting, if members of the public would like to raise an issue they are encouraged to quietly pass written comments to group members who can bring that issue up before the group.

The group will strive to operate by consensus. Consensus is defined here as the vast majority of group members concurring, with the remaining members able to accept the decision. Differences of opinion will be noted and included as part of the group's recommendations including a minority report as necessary and appropriate. Group members are committed to working towards the needs of everyone to reach group consensus.

In order for an item to pass a vote of the group, at least two-thirds of the group must vote in favor. A quorum for the group will be defined as two-thirds of the membership attending a meeting. Votes are not limited to members attending meetings. Members who are unable to attend due to unavoidable circumstances will have a chance to cast a vote outside of the meeting through e-mail. Organized groups or agencies represented by more than one member will have a single vote.⁵

Meetings will start and end on time.

Meeting summaries will be prepared and distributed to all group members in a timely manner. Members who would like or are asked to gather information for dissemination to the group should e-mail that information to Jana Greer at jana.greer@dnr.wa.gov.

Group members are strongly encouraged to attend each meeting in order to ensure continuity in the conversation. However, if a group member misses a meeting it is her/his responsibility to be up-to-speed on the issues by the next meeting.

Only appointed or group approved members can participate in discussions regarding formal group recommendations. Members of the public at

⁵ Although the group established this rule early on, practically speaking it was never used as consensus was reached on all recommendations that are represented in the re-write of RCW 76.48 of Appendix B.


attendance at meetings are welcome to attend and pass issues to members for them to bring forward to the group.

Any member may speak to the media regarding issues before the group, provided s/he speaks only for her or himself. Members are encouraged to let the process reach its conclusion before discussing potential policy recommendations. Time will be included on the group agenda for public comments.

Meeting materials will be sent to group members in advance whenever possible. Any meeting handouts will be copied and mailed or e-mailed to group members who were not present.



Picture 8: A load of stolen salal being transported in a sedan. PHOTO: DNR Law Enforcement Services



Appendix E: Recommendations from the Subcommittee on Specialized Forest Products Education and Outreach

Recommendations:

- **Instructional booklet:** Envisioned as a small pocket size synopsis for the harvester or permittee's use based on the booklet currently in use that was developed by the Grays Harbor County Sheriff's office. It would contain the following:
 - A copy of properly completed permit for different products and situations, with line-by-line instructions and which fields are mandatory, etc.
 - The minimum amounts of various products that require a permit. For example, 5 gallons of mushrooms need permit.
 - The wood dimensions for specialty wood should be graphically represented.
 - The general rules from each section of the statute should be shortened, made direct and simple to understand.
 - It should include important phone numbers like county sheriff's and assessor's offices, US Forest Service ranger stations, Bureau of Land Management offices, DNR offices, etc.
 - It should include a section devoted to raising awareness of the cultural issues surrounding many of these products. Specifically the cultural/traditional use by the Tribes to respect their needs and harvest sites.
 - Lastly, it should be translated into several languages.]
- **Video:** DNR should develop an instructional video that is:
 - Non verbal with simple text added at bottom in different languages or dubbed in varying languages.
 - It should include chapters/tabs for each specialized forest product.
 - Topics covered should include proper methods of harvest to sustain the resources, safety, and legal requirements and photos of different products for easy identification.
 - It should include a section devoted to raising awareness of the cultural issues surrounding many of these products. Specifically the cultural/traditional use by the Tribes to respect their needs and harvest sites.
 - The video should also address the additional requirements of individual landowners.
- **Brochure:** This would be a print version of the video.

-
- **A toll free phone number** should be provided for citizens to report theft, or safety concerns and ask questions about permits and other legal requirements.
 - **Law enforcement training:** A course for law enforcement should be developed to help train new and current law enforcement officers about updates to this law and how to recognize theft.
 - **Property identification aids:** If possible get a list of roads gates that are unique to land owners for harvesters to help determine location, i.e., road sign and gate colors and/or symbols.
 - **Basic map reading training:** This could be worked into several of the above recommendations

Distribution:

- We discussed various methods to distribute this information i.e., mailings, web site, library, government offices, retail stores
- These products could be made available wherever one could obtain or download the actual permit
- County extension agents assist in training.

Funding:

- Cooperative with US Forest Service, DNR and universities: the group will do more research here to see who all is available to chip in.
- Possible dollars from legislature
- Add to statute that all fiscal penalties paid will go to a fund for specialized forest products education/outreach as required by sections 22 and 23.

All of these recommendations are reliant on several outcomes and funding, however this is what we see as good tools/wish list to implement a successful statewide specialized forest products program.



Picture 9: Bales of noble fir boughs being stacked for transport. PHOTO: DNR Law Enforcement Services

Appendix F: Table of Counties That Issue Specialized Forest Products Permits

County	Issues Permit	Affixes Seal or Stamp	Does this County's Assessor have a Website?
ADAMS	NO		http://adamswa.taxesifter.com/taxesifter/t-parcelsearch.asp
ASOTIN	NO		No
BENTON	NO		http://bentonpropertymax.governmentmaxa.com/propertymax/rover30.asp
CHELAN	YES	UN-KNOWN	http://63.135.55.71/parcel_objects/?Agree=Agree
CLALLAM	YES	YES	http://www.clallam.net/RealEstate/html/land_parcel_search.htm
CLARK	YES	YES	http://www.clark.wa.gov/Property-Information.html
COLUMBIA	NO		No
COWLITZ	YES	YES	http://www.co.cowlitz.wa.us/cowlitzapps/cowlitzassessorparcelsearch/(S(vr0ug1qdy3wnmg2ncjmur2f))/default.aspx
DOUGLAS	NO		http://douglaswa.taxesifter.com/taxesifter/disclaimer.asp
FERRY	NO		http://ferrywa.taxesifter.com/taxesifter/disclaimer.asp
FRANKLIN	NO		http://franklinwa.taxesifter.com/taxesifter/disclaimer.asp
GARFIELD	NO		No
GRANT	NO		http://qismapservers.co.grant.wa.us/
GRAYS HARBOR	YES	YES	http://www.co.grays-harbor.wa.us/gh_Parcel/index_a1.asp
ISLAND	NO		http://www.islandcounty.net/PublicInformation/GuestLogin.aspx?ReturnUrl=%2fPublicInformation%2fProperty%2fAccountSearch.aspx
JEFFERSON	YES	YES	http://www.co.jefferson.wa.us/hidden/disclaimer.htm
KING	YES	YES	https://payments.metrokc.gov/metrokc.ecommerce.propertytaxweb/
KITSAP	YES	YES	http://kcwppub3.co.kitsap.wa.us/ParcelSearch/
KITTITAS	YES	YES	http://www.co.kittitas.wa.us/taxesifterpublic/disclaimer.asp
KLICKITAT	YES	YES	http://www.klickitatcounty.org/Road/ContentROne.asp?fContentIdSelected=455695186&fCategoryIdSelected=-342308583&fX=X
LEWIS	YES	YES	http://lewiscountywa.gov/PATS/
LINCOLN	NO		http://www.co.lincoln.wa.us/assessor/disclaimer.htm
MASON	YES	YES	http://www.co.mason.wa.us/astri/index.php
OKANOGAN	No		http://okanoganwa.taxesifter.com/taxesifter/disclaimer.asp
PACIFIC	YES	YES	http://pacificwa.taxesifter.com/taxesifter/T-Parcelsearch.asp
PEND OREILLE	YES	NO	No
PIERCE	YES	YES	http://www.co.pierce.wa.us/pc/abtus/ourorg/at/at.htm
SAN JUAN	YES	YES	http://www.gartrellgroup.net/sjparcelsearch/
SKAGIT	YES	YES	http://www.skagitcounty.net/Common/Asp/Default.asp?d=assessor&c=search&a=ParcelSearch&p=Search.asp&st=address
SKAMANIA	NO		http://skamaniawa.taxesifter.com/taxesifter/disclaimer.asp
SNOHOMISH	YES	YES	http://web5.co.snohomish.wa.us/propsys/Asr-Tr-PropInq/Prplng01-Entry.asp
SPOKANE	NO		http://www.spokanecounty.org/pubpadal/
STEVENS	YES	YES	http://www.co.stevens.wa.us/assessor/RealProp/real_property_search_assessor.htm
THURSTON	YES	YES	http://tcproperty.co.thurston.wa.us/propsql/front_s.asp
WAHKIAKUM	YES	YES	No
WALLA WALLA	NO		http://wallawallawa.mapsifter.com/Mapsifter/disclaimer.aspx
WHATCOM	YES	YES	http://www.co.whatcom.wa.us/cqibin/db2www/assessor/search/RPSearch.ndt/disclaimer
WHITMAN	NO		No
YAKIMA	YES	YES	http://yakimap.com/servlet/com.esri.esrimap.Esrimap?name=YakGISH&Cmd=Map
TOTAL	23	21	

Chelan County doesn't know if they affix a seal and Pend Oreille does not

Mason County charges a \$5.00 fee

Appendix G: Recommended Re-write of RCW 76.48

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

NEW SECTION. **Sec. 1.** (1) The legislature finds that the specialized forest products work group created pursuant to section 2, chapter 392, Laws of 2007 produced a number of consensus recommendations to the legislature as to how the permitting requirements of chapter 76.48 RCW can be improved. In making recommendations, the work group focused on the goals enumerated in RCW 76.48.010 (as recodified by this act).

(2) It is the intent of the legislature to enact those recommendations contained in the report submitted to the legislature from the specialized forest products work group in December 2008 that require statutory modifications.

(3) It is also the intent of the legislature for the department of natural resources, along with other state and local agencies, to take those administrative actions necessary to execute the recommendations contained in the report that do not require statutory changes. When taking administrative actions regarding specialized forest products, those actions should, when appropriate, be conducted consistent with recommendations contained in the report submitted to the legislature from the specialized forest products work group.

Sec. 2. RCW 76.48.010 and 1967 ex.s. c 47 s 2 are each amended to read as follows:

(1) It is in the public interest of this state to protect ((a great)) an important natural resource and to provide ((a high degree of)) protection to the landowners of the state of Washington from the theft of specialized forest products.

(2) To satisfy this public interest, this chapter is intended to:

(a) Provide law enforcement with reasonable tools;

(b) Reasonably protect landowners from theft;

(c) Ensure that requirements are not unduly burdensome to those harvesting, transporting, possessing, and purchasing specialized forest products;

(d) Craft requirements that are clear and readily understandable; and

(e) Establish requirements that are able to be administered and enforced consistently statewide.

Sec. 3. RCW 76.48.020 and 2008 c 191 s 9 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Artistic cedar product" means a product made from the wood of a cedar tree, including western red cedar, that is not included in the definition of "cedar products" and has been carved, turned, or otherwise manipulated to more than an insignificant degree with the objective intent to be an artistic expression and that would be or is recognized by the

applicable local market as having an economic value greater than the value of the raw materials used. Examples of artistic cedar products include, but are not limited to:

(a) Chainsaw carvings;

(b) Hand carvings;

(c) Decorative bowls and boxes.

(2) "Authorization" means a properly completed preprinted form authorizing the transportation or possession of Christmas trees (~~(which contains the information required by)~~) prepared consistent with RCW 76.48.080 (~~(, a sample of which is filed before the harvesting occurs with the sheriff of the county in which the harvesting is to occur)~~) (as recodified by this act).

~~((2))~~ (3) "Bill of lading" means a written or printed itemized list or statement of particulars pertinent to the transportation or possession of a specialized forest product prepared consistent with RCW 76.48.080 (as recodified by this act).

~~((3))~~ (4) "Cascara bark" means the bark of a Cascara tree.

~~((4) "Cedar processor" means any person who purchases, takes, or retains possession of cedar products or cedar salvage for later sale in the same or modified form following removal and delivery from the land where harvested.)~~

~~(5) ("Cedar products" means cedar shakeboards, shake and shingle bolts, and rounds one to three feet in length.~~

~~(6) "Cedar salvage" means cedar chunks, slabs, stumps, and logs having a volume greater than one cubic foot and being harvested or transported from~~

~~areas not associated with the concurrent logging of timber stands (a) under a forest practices application approved or notification received by the department of natural resources, or (b) under a contract or permit issued by an agency of the United States government.)~~ (a) "Cedar products" means the following if made from the wood of a cedar tree, including western red cedar:

(i) Shake and shingle bolts;

(ii) Fence posts and fence rails;

(iii) Logs not covered by a valid approved forest practices application or notification under chapter 76.09 RCW; and

(iv) Other pieces measuring fifteen inches or longer.

(b) "Cedar products" does not include those materials identified in the definition of "processed cedar products" or "artistic cedar products."

~~((7))~~ (6) "Christmas trees" means any evergreen trees ((or the top thereof, commonly known as Christmas trees, with limbs and branches, with or without roots, including fir, pine, spruce, cedar, and other coniferous species)) including fir, pine, spruce, cedar, and other coniferous species commonly known as Christmas trees. The definition of Christmas trees includes trees with or without the roots intact and the tops of the trees. The definition of Christmas trees does not include trees without limbs or branches.

~~((8))~~ (7) "Cut or picked evergreen foliage ((," commonly known as brush,)) " means evergreen boughs, huckleberry foliage, salal, fern, Oregon grape, rhododendron, mosses, bear grass, ~~((setch broom~~

~~(Cytisus scoparius),~~) and other cut or picked evergreen products. "Cut or picked evergreen foliage" does not ~~((mean))~~ include cones, berries, any foliage that does not remain green year-round, ~~((or))~~ seeds, or any plant listed on the state noxious weed list under RCW 17.10.080.

~~((9))~~ (8) "Department" means the department of natural resources.

(9) "First specialized forest products buyer" means the first person that receives any specialized forest products after they leave the harvest site.

(10) "Harvest" means to separate, by cutting, prying, picking, peeling, breaking, pulling, splitting, or otherwise removing, a specialized forest product ~~((a) from its physical connection or contact with the land or vegetation upon which it is or was growing or (b) from the position in which it is lying upon the land))~~. "Harvest" includes both removing a specialized forest product from its original physical connection with the land and collecting a specialized forest product that has been previously separated from the land.

~~((10))~~ (11) "Harvest site" means each location where one or more persons are engaged in harvesting specialized forest products close enough to each other that communication can be conducted with an investigating law enforcement officer in a normal conversational tone.

~~((11))~~ (12) "Huckleberry" means the following species of edible berries, if they are not nursery grown: Big huckleberry (Vaccinium membranaceum), Cascade blueberry (Vaccinium deliciosum), evergreen huckleberry (Vaccinium ovatum), red huckleberry

(Vaccinium parvifolium), globe huckleberry (Vaccinium globulare), oval-leaf huckleberry (Vaccinium ovalifolium), Alaska huckleberry (Vaccinium alaskaense), dwarf huckleberry (Vaccinium caespitosum), western huckleberry (Vaccinium occidentale), bog blueberry (Vaccinium uliginosum), dwarf bilberry (Vaccinium myrtillus), and grouse whortleberry (Vaccinium scoparium).

~~((12))~~ (13) "Landowner" means, with regard to real property, the private owner, the state of Washington or any political subdivision, the federal government, or a person who by deed, contract, or lease has authority to harvest and sell the specialized forest products of the property. "Landowner" does not include the purchaser or successful high bidder at a public or private timber sale.

~~((13))~~ (14) "Native ornamental trees and shrubs" means any trees or shrubs which are not nursery grown and which have been removed from the ground with the roots intact.

~~((14) "Permit area" means a designated tract of land that may contain single or multiple harvest sites))~~ (15) "Permittee" means a person who is authorized by a permit issued consistent with this chapter to harvest, possess, and transport specialized forest products or to sell huckleberries.

~~((15))~~ (16) "Permittor" means the landowner of the land from where specialized forest products were, or are planned to be, harvested under a permit issued consistent with this chapter.

(17) "Person" includes the plural and all

corporations, foreign or domestic, copartnerships, firms, and associations of persons.

~~((16))~~ (18) "Processed cedar products" means
((cedar shakes, shingles, fence posts, hop poles,
pickets, stakes, rails, or rounds less than one foot
in length)) products made from the wood of a cedar
tree, including western red cedar, that have
undergone more than an insignificant degree of value-
added processing and are not included in the
definition of "cedar products." Examples of
processed cedar products include, but are not limited
to:

(a) Shakes;

(b) Shingles;

(c) Hop poles;

(d) Pickets; and

(e) Stakes.

~~((17) "Sheriff" means, for the purpose of~~
~~validating specialized forest products permits, the~~
~~county sheriff, deputy sheriff, or an authorized~~
~~employee of the sheriff's office or an agent of the~~
~~office.~~

~~(18))~~ (19) "Sales invoice" means a written or
printed itemized list or statement of particulars
pertinent to the transportation or possession of a
specialized forest product prepared consistent with
RCW 76.48.080 (as recodified by this act).

(20) "Secondary specialized forest products
buyer" means any person who receives any specialized
forest products after the transaction with the first
specialized forest products buyer.

(21) "Specialized forest products" means
((Christmas trees, native ornamental trees and

~~shrubs, cut or picked evergreen foliage, cedar products, cedar salvage, processed cedar products, specialty wood, wild edible mushrooms, and Cascara bark~~) the following:

- (a) Specialty wood;
- (b) More than five Christmas trees;
- (c) More than five native ornamental trees and shrubs;
- (d) More than twenty pounds of cut or picked evergreen foliage;
- (e) More than five pounds of Cascara bark; and
- (f) More than five United States gallons of wild edible mushrooms.

~~((19))~~ (22) "Specialized forest products permit" or "permit" means a printed document ((in a form printed by the department of natural resources, or true copy thereof, that is signed by a landowner or his or her authorized agent or representative, referred to in this chapter as "permitters" and validated by the county sheriff and authorizes a designated person, referred to in this chapter as "permittee," who has also signed the permit, to harvest and transport a designated specialized forest product from land owned or controlled and specified by the permitter and that is located in the county where the permit is issued, or sell raw or unprocessed huckleberries)) and all attachments completed in compliance with the requirements of this chapter and includes both validated permits and verifiable permits.

~~((20))~~ (23) "Specialty wood" means ((wood)):

- (a) A cedar product; or

(b) Englemann spruce, Sitka spruce, big leaf maple, or western red alder that ((is)):

~~((a))~~ (i) Is in logs ((less than eight feet in length)), chunks, slabs, stumps, or burls; ((and

~~(b) One or more of the following:~~

~~(i) Of the species western red cedar, Englemann spruce, Sitka spruce, big leaf maple, or western red alder;))~~

(ii) Is capable of being cut into a segment that is without knots in a portion of the surface area at least ((twenty-one)) nineteen inches long and seven and a quarter inches wide when measured from the outer surface toward the center; ((or

~~(iii) Suitable for the purposes of making musical instruments or ornamental boxes))~~

(iii) Measures:

(A) Nineteen inches or longer;

(B) Greater than one and three-quarter inches thick; and

(C) Seven and one-quarter inches or greater in width; and

(iv) Is being harvested or transported from areas not associated with the concurrent logging of timber stands:

(A) Under a forest practices application approval or notification received by the department under chapter 76.09 RCW; or

(B) Under a contract or permit issued by an agency of the United States government.

~~((21) "Specialty wood buyer" means the first person that receives any specialty wood product after it leaves the harvest site.~~

~~(22))~~ (24) "Specialty wood processor" means any

person who purchases, takes, or retains possession of specialty wood (~~(products or specialty wood salvage)~~) for later sale in the same or modified form following removal and delivery from the land where harvested.

~~((23))~~ (25) "Transportation" means the physical conveyance of specialized forest products outside or off of a harvest site by any means.

~~((24))~~ (26) "True copy" means a replica of a ~~(validated)~~ specialized forest products permit ~~(as)~~ reproduced ~~(by a copy machine capable of effectively reproducing the information contained on the permittee's copy of the specialized forest products permit. A copy is made true by the permittee or the permittee and permitter signing in the space provided on the face of the copy. A true copy will be effective until the expiration date of the specialized forest products permit unless the permittee or the permittee and permitter specify an earlier date. A permitter may require the actual signatures of both the permittee and permitter for execution of a true copy by so indicating in the space provided on the original copy of the specialized forest products permit. A permittee, or, if so indicated, the permittee and permitter, may condition the use of the true copy to harvesting only, transportation only, possession only, or any combination thereof)~~ as provided in section 6 of this act.

~~((25))~~ (27) "Validated permit" means a permit that is validated as required under this chapter prior to the harvest, transportation, or possession of specialized forest products.

(28) "Verifiable permit" means a permit that

contains the required information allowing a law enforcement officer to verify the validity of the information contained on the permit but that does not require validation prior to the harvest, transportation, or possession of specialized forest products.

(29) "Wild edible mushrooms" means edible mushrooms not cultivated or propagated by ((artificial)) domestic means.

Sec. 4. RCW 76.48.060 and 2008 c 191 s 3 are each amended to read as follows:

(1) Except as provided in RCW 76.48.100 (as recodified by this act), a completed specialized forest products permit ((validated by the county sheriff shall be obtained by a person prior to)) issued under this chapter is required prior to engaging in the following activities:

(a) Harvesting any specialized forest products from any lands, including his or her own ~~((, more than five Christmas trees, more than five native ornamental trees or shrubs, more than five pounds of cut or picked evergreen foliage, any cedar products, cedar salvage, processed cedar products, or more than five pounds of Cascara bark, or more than five United States gallons of a single species of wild edible mushroom; or~~

~~— (b) Selling, or offering for sale, any amount of raw or unprocessed huckleberries.~~

~~— (2) Specialized forest products permit forms shall be provided by the department of natural resources, and shall be made available through the office of the county sheriff to permittees or~~

~~permitters in reasonable quantities. A permit form shall be completed in triplicate for each permitter's property on which a permittee harvests specialized forest products. A properly completed permit form shall be mailed or presented for validation to the sheriff of the county in which the specialized forest products are to be harvested.~~

~~—— (3) Before a permit form is validated by the sheriff, sufficient personal identification may be required to reasonably identify the person mailing or presenting the permit form and the sheriff may conduct other investigations as deemed necessary to determine the validity of the information alleged on the form. When the sheriff is reasonably satisfied as to the truth of the information, the form shall be validated with the sheriff's validation stamp.~~

~~—— (4) Upon validation, the form shall become the specialized forest products permit authorizing the harvesting, possession, or transportation of specialized forest products and the sale of huckleberries, subject to any other conditions or limitations which the permitter may specify. Two copies of the permit shall be given or mailed to the permitter, or one copy shall be given or mailed to the permitter and the other copy given or mailed to the permittee. The original permit shall be retained in the office of the county sheriff validating the permit.~~

~~—— (5) In the event a single land ownership is situated in two or more counties, a specialized forest product permit shall be completed as to the land situated in each county.~~

~~—— (6) While engaged in harvesting of specialized~~

~~forest products, permittees, or their agents or employees, must have readily available at each harvest site a valid permit or true copy of the permit.))~~ land.

(b) Possessing or transporting any specialized forest products, unless the person has in his or her possession either of the following in lieu of a permit:

(i) A true copy of the permit;

(ii) If the person is transporting the specialized forest product from a location other than the harvest site or is a first or secondary specialized forest products buyer, a sales invoice, bill of lading, or, for the possession and transportation of Christmas trees only, an authorization if a copy of the authorization has been filed prior to the harvest of the Christmas trees with the sheriff's office for the county in which the Christmas trees are to be harvested;

(iii) A bill of lading or documentation issued in or by another state, a Canadian province, or the federal government indicating the true origin of the specialized forest products as being outside of Washington; or

(iv) A copy of a valid approved forest practices application or notification issued under chapter 76.09 RCW along with the unique permit or notification identification and load ticket number.

(c) Selling, or offering for sale, any amount of raw or unprocessed huckleberries, regardless if the huckleberries were harvested with the consent of the landowner, unless the possessor of the huckleberries being offered for sale is able to show that the

huckleberries originated on land owned by the United States forest service and displays a valid permit from the United States forest service that lawfully entitles the possessor to harvest the huckleberries in question.

(2) (a) Unless otherwise designated by the permittor as provided in this subsection, a permit or true copy must be readily available for inspection at each harvest site.

(b) An individual permit or true copy must be carried and made readily available for inspection by each individual permittee at a harvest site if the permittor designated an individual permit or true copy as an additional condition or limitation specified on the permit under RCW 76.48.050 (as recodified by this act).

Sec. 5. RCW 76.48.080 and 1979 ex.s. c 94 s 7 are each amended to read as follows:

~~((The))~~ An authorization, sales invoice, or bill of lading ~~((required by RCW 76.48.070 shall))~~ must specify the following in order to satisfy the requirements of this chapter:

(1) The date of ~~((its execution))~~ the product's transportation.

(2) The ~~((number))~~ amount and type of specialized forest products ~~((sold or))~~ being transported.

(3) The name and address of the ~~((owner, vendor, or donor of the specialized forest products.~~

~~—~~ (4) ~~The name and address of the vendee, donee, or receiver of the))~~ person receiving the specialized forest products.

~~((5) The location of origin of the specialized forest products.))~~ (4) The name and address of the first or secondary specialized forest products buyer, specialty wood processor, or other person from where the specialized forest products are being transported.

(5) The name of the driver transporting the specialized forest products.

(6) The license plate number of the vehicle transporting the specialized forest product.

NEW SECTION. **Sec. 6.** A new section is added to chapter 76.48 RCW to read as follows:

(1) A true copy of a specialized forest products permit is valid if:

(a) The copy is reproduced by a copy machine capable of effectively reproducing the permit information required under RCW 76.48.050 (as recodified by this act); and

(b) (i) The permittee has provided an original signature in the space provided on the face of the copy.

(ii) An actual signature of the permittor is also required for a true copy to be valid if the permittor indicates on the space provided for signatures on the original permit that the actual signature of the permittor is required for the validation of any copies.

(2) A true copy is effective until the expiration date of the underlying permit unless an earlier date is provided by the signatories to the copy.

(3) Either signatory to a permit may condition the use of the true copy for only harvesting, only

possessing, only transporting, or a combination of harvesting, possessing, and transporting the associated specialized forest products by indicating the limitations of the true copy on the permit or the copy.

(4) Any permittee issuing a true copy must record and retain for one year the following information:

(a) The date the true copy is issued;

(b) The license plate number and make and model of the vehicle to be used with the true copy;

(c) The name and address of the person receiving the true copy;

(d) The unique number assigned to a valid state identification document issued to the person; and

(e) The expiration date of the true copy.

NEW SECTION. **Sec. 7.** A new section is added to chapter 76.48 RCW to read as follows:

(1) (a) Except for the sale of huckleberries, the permit requirements of RCW 76.48.060 (as recodified by this act) may be satisfied with either a validated permit or a verifiable permit. The decision to use a validated or verifiable permit must be made and agreed upon jointly by the permittee and the permittor.

(b) For the sale of huckleberries, only a validated permit satisfies the requirements of RCW 76.48.060 (as recodified by this act).

(2) (a) Forms for both validated permits and verifiable permits must be provided by the department and be made available in reasonable quantities through county sheriff offices and other locations deemed appropriate by the department.

(b) In designing the forms, the department shall ensure that:

(i) All mandatory requirements of this chapter are satisfied;

(ii) The type of permit is clearly marked on the form;

(iii) Each permit is separately numbered and the issuance of the permits are by unique numbers; and

(iv) The form is designed in a manner allowing a permittor to require his or her signature on all true copies as provided in section 6 of this act.

(3) Permit forms must be completed in triplicate for each property and in each county in which specialized forest products are proposed to be harvested.

(4) (a) Within five business days after the signature of the permittor on the form for a verifiable permit, as required in RCW 76.48.050 (as recodified by this act), the original permit form must be provided by the permittee to the sheriff of the county in which the specialized forest products are to be harvested. The permittee may provide the permit form in a manner convenient to the permittee and the sheriff's office, including in-person presentation or by mail. If mailed, the permit form must be postmarked within the time window established under this subsection.

(b) Upon full completion, as provided in RCW 76.48.050 (as recodified by this act), the permit form for a validated permit must, except for permits to sell huckleberries, be mailed or presented for validation to the sheriff of the county in which the specialized forest products are to be harvested.

Validated permits relating to the sale of huckleberries may be validated by the sheriff of any county in the state.

(5) Two copies of the permit must be retained by the permittee, of which one copy must be given or mailed to the permittor by the permittee. The original permit must be retained in the office of the county sheriff for the purposes of verifying the permit, if necessary.

(6) All permits expire no later than the end of the calendar year in which they are issued.

(7) Permits provided under this section are subject to any other conditions or limitations that the permittor may specify.

(8) Before a permit form is accepted or validated by a sheriff, sufficient personal identification may be required to reasonably identify the person mailing or presenting the permit form. The sheriff may conduct other investigations as deemed necessary to determine the validity of the information alleged on the form.

(9) In the event a single land ownership is situated in two or more counties, a permit form must be completed, as provided in this section, for the portions of the ownership situated in each county.

(10) Permits that are validated by or provided to a sheriff's office under this section must be maintained by that office for a length of time determined by the appropriate records retention schedule.

NEW SECTION. **Sec. 8.** A new section is added to chapter 76.48 RCW to read as follows:

(1) Forms for a verifiable permit become valid for the purposes of RCW 76.48.060 (as recodified by this act) upon the completion of all information required by RCW 76.48.050 (as recodified by this act).

(2) Forms for a validated permit become valid for the purposes of RCW 76.48.060 (as recodified by this act) upon the validation of the form by the appropriate county sheriff.

Sec. 9. RCW 76.48.050 and 2008 c 191 s 2 are each amended to read as follows:

(1) (~~Except as otherwise provided in subsection (3) of this section,~~) A specialized forest products (permits shall consist of properly completed permit forms validated by the sheriff of the county in which the specialized forest products are to be harvested. Each permit shall be separately numbered and the issuance of the permits shall be by consecutive numbers. All specialized forest products permits shall expire at the end of the calendar year in which issued, or sooner, at the discretion of the permitter) permit form may not be validated or accepted for verification by a sheriff unless the permit satisfies the requirements of this section.

(2) A properly completed (~~specialized forest products~~) permit form shall include:

(a) The date of its execution and expiration;

(b) The name, address, up to three telephone numbers, (~~if any,~~) and signature of the (~~permitter~~) permittee and permittor;

(c) (~~The name, address, telephone number, if any, and signature of the permittee;~~

~~(d)~~) The type of specialized forest products to be harvested or transported;

~~((e))~~ (d) The approximate amount or volume of specialized forest products to be harvested or transported;

~~((f))~~ (e) (i) For validated permits only, the parcel number or the legal description of the property from which the specialized forest products are to be harvested or transported~~((, including))~~;

(ii) For verifiable permits only:

(A) The parcel number for where the harvesting is to occur, unless the owner of the parcel actually lives at the parcel and the parcel's boundaries comprise an area one acre in size or smaller;

(B) The address of the property where the harvesting is to occur if the owner of the property lives at the parcel and the parcel's boundaries comprise an area less than one acre;

(C) The name of the county~~((, or the state or province if outside the state of Washington))~~ where the harvesting is to occur; and

(D) An accurate report or statement from the county assessor of the county where the specialized forest products are to be harvested that provides clear evidence that the permittor named on the verifiable permit is the owner of the parcel named on the permit;

~~((g))~~ (f) A description by local landmarks of where the harvesting is to occur, or from where the specialized forest products are to be transported;

~~((h))~~ (g) For ~~((cedar products, cedar salvage, and))~~ specialty wood, a copy of a map or aerial

photograph, with defined permitted boundaries, included as an attachment to the permit;

~~((i))~~ (h) (i) For validated permits, a copy of a valid picture identification of the permittee on the copy of the permit form that is presented to the sheriff; and

(ii) For verifiable permits, the unique number assigned to a valid state identification document for both the permittee and permittor; and

~~((j))~~ (i) The details of any other condition or limitation which the ~~(permitter)~~ permittor may specify.

(3) For permits intended to satisfy the requirements of RCW ~~((76.48.210))~~ 76.48.060 (as recodified by this act) relating ~~((only))~~ to the sale of huckleberries, the ~~((specialized forest products))~~ permit:

(a) ~~((May be obtained from the department of natural resources or the sheriff of any county in the state;~~

~~—(b))~~ Must, in addition to the requirements of subsection (2) of this section, also contain information relating to where the huckleberries were, or plan to be, harvested, and the approximate amount of huckleberries that are going to be offered for sale; and

~~((e))~~ (b) Must include a statement designed to inform the possessor that permission from the landowner is still required prior to the harvesting of huckleberries.

~~((4) Except for the harvesting of Christmas trees, the permit or true copy thereof must be carried by the permittee and the permittee's agents~~

~~and be available for inspection at all times. For the harvesting of Christmas trees only a single permit or true copy thereof is necessary to be available at the harvest site.))~~

Sec. 10. RCW 76.48.062 and 1995 c 366 s 15 are each amended to read as follows:

(1) County sheriffs may contract with other entities to serve as authorized agents to ((validate specialized forest product)) accept and validate permits under section 7 of this act. ((These)) Entities that a county sheriff may contract with include the department, the United States forest service, the bureau of land management ((, the department of natural resources)), local police departments, and other entities as decided upon by the county sheriffs' departments.

(2) An entity that contracts with a county sheriff to serve as an authorized agent ((to validate specialized forest product permits)) under this section may make reasonable efforts to verify the information provided on the permit form such as the ((section, township, and range)) legal description or parcel number of the area where harvesting is to occur.

(3) All processes and requirements applicable to county sheriffs under section 7 of this act also apply to entities contracted under this section.

Sec. 11. RCW 76.48.094 and 2005 c 401 s 7 are each amended to read as follows:

(1) ((Cedar or)) It is unlawful for any first or secondary specialized forest products buyer, or for

any other person, to purchase, take possession of, or retain specialized forest products subsequent to the harvesting and prior to the retail sale of the products unless the supplier of the product displays:

(a) An apparently valid permit required by RCW 76.48.060 (as recodified by this act);

(b) A true copy of an apparently valid permit; or

(c) When applicable:

(i) A bill of lading, authorization, sales invoice, or a government-issued documentation, prepared consistent with RCW 76.48.060 (as recodified by this act) indicating the true origin of the specialized forest products as being outside of Washington;

(ii) The identification number of an approved forest practices application or notification issued under chapter 76.09 RCW and the applicable load ticket number; or

(iii) A statement claiming the products offered for sale are otherwise exempt from the permit requirements of this chapter under RCW 76.48.100 (as recodified by this act).

(2) In addition to the requirements of RCW 76.48.085 (as recodified by this act), specialty wood processors (~~shall make and maintain a record of the purchase, taking possession, or retention of cedar products, cedar salvage, or specialty wood for at least one year after the date of receipt. The record must be legible and must be made at the time each delivery is made.~~

~~—(2) The~~) are required to ensure that a bill of lading ((~~must accompany~~)), authorization, or sales invoice accompanies all ((~~cedar products, cedar~~

~~salvage, or)) specialty wood ((products after the products are received by the cedar or specialty wood processor)) upon the receipt of the specialty wood into or the shipping of the specialty wood out of the property of the specialty wood processor. ((The bill of lading must include the specialized forest products permit number or the information provided for in RCW 76.48.075(5) and must also specify:~~

- ~~—— (a) The date of transportation;~~
- ~~—— (b) The name and address of the first cedar or specialty wood processor or buyer who recorded the specialized forest products information;~~
- ~~—— (c) The name and address from where the cedar or specialty wood products are being transported;~~
- ~~—— (d) The name of the person receiving the cedar or specialty wood products;~~
- ~~—— (e) The address to where the cedar or specialty wood products are being transported;~~
- ~~—— (f) The name of the driver;~~
- ~~—— (g) The vehicle license number;~~
- ~~—— (h) The type of cedar or specialty wood product being shipped; and~~
- ~~—— (i) The amount of cedar or specialty wood product being shipped.))~~

Sec. 12. RCW 76.48.085 and 2008 c 191 s 4 are each amended to read as follows:

(1) ~~((Buyers who purchase specialized forest products or huckleberries))~~ (a) First and secondary specialized forest products buyers are required to record:

~~((a))~~ (i) If the person is a first specialized forest product buyer, the permit number or, if

applicable, the identification number of an approved forest practices application or notification issued under chapter 76.09 RCW along with the applicable load ticket number if the seller claims the specialized forest product in question is exempt from the permit requirements of this chapter due to its concurrent harvest with timber stands under RCW 76.48.100 (as recodified by this act);

~~((b))~~ (ii) Whether or not the products were accompanied by a bill of lading, authorization, or sales invoice;

(iii) The type of specialized forest product purchased, and ~~((whether))~~, if applicable, an indication that huckleberries were purchased;

~~((c))~~ (iv) The ~~((permit holder's))~~ name of the seller; ~~((and~~

~~((d))~~ (v) The amount of specialized forest product or huckleberries purchased;

(vi) The date of delivery;

(vii) The name of the person driving the vehicle in which the specialized forest products were transported to the buyer, as confirmed by a visual inspection of the applicable driver's license, unless the buyer has previously recorded the driver's information in an accessible record; and

(viii) Except for transactions involving Christmas trees, the license plate number of the vehicle in which the specialized forest products were transported to the buyer.

~~((2) The buyer or processor)~~ (b) First and secondary specialized forest products buyers shall keep a record of this information, along with any accompanying bill of lading, sales invoice, or

authorization, for a period of one year from the date of purchase and must make the records available for inspection upon demand by ((authorized)) enforcement officials authorized under RCW 76.48.040 (as recodified by this act) to enforce this chapter.

~~((3) The buyer of specialized forest products must record the license plate number of the vehicle transporting the forest products or huckleberries on the bill of sale, as well as the seller's permit number on the bill of sale. This section shall not apply to transactions involving Christmas trees.~~

~~—(4))~~ (c) In lieu of a permit number or forest practices identification and load ticket number, the buyer may, when applicable, note that the seller claims that the products offered for sale are exempt from the permit requirements of this chapter under RCW 76.48.100 (as recodified by this act), or were lawfully transported into Washington from out of state. All other information required by this section must be recorded.

(2) This section ((shall)) does not apply to buyers of specialized forest products at the retail sales level.

(3) Records of buyers of specialized forest products and huckleberries collected under this section may be made available to colleges and universities for the purpose of research.

Sec. 13. RCW 76.48.098 and 2005 c 401 s 9 are each amended to read as follows:

Every ~~((cedar or))~~ first or secondary specialized forest products buyer purchasing specialty wood and specialty wood ((buyer or)) processor shall

prominently display a ~~((valid registration certificate,))~~ master license issued by the department of licensing under RCW 19.02.070 or a copy ((thereof)) of the license ~~((, obtained from the department of revenue under RCW 82.32.030))~~ at each location where the buyer or processor receives ~~((cedar products, cedar salvage, or))~~ specialty wood if the first or secondary specialized forest products buyer or specialty wood processor is required to possess a license incorporated into the master license system created in chapter 19.02 RCW.

~~((Permittees shall sell cedar products, cedar salvage, or specialty wood products only to cedar or specialty wood processors displaying registration certificates which appear to be valid.))~~

Sec. 14. RCW 76.48.030 and 2007 c 392 s 4 are each amended to read as follows:

It is unlawful for any person to:

(1) ~~((Harvest))~~ Sell or attempt to sell huckleberries, or harvest, possess, or transport specialized forest products ((as described in RCW 76.48.020, in the quantities specified)) in violation of RCW 76.48.060 ~~((, without first obtaining a validated specialized forest products permit))~~ (as recodified by this act);

(2) Engage in activities or phases of harvesting specialized forest products not authorized by ~~((the))~~ a permit under this chapter;

(3) Harvest specialized forest products in any lesser quantities than those specified in RCW 76.48.060 ~~((, as now or hereafter amended,))~~ (as recodified by this act) without first obtaining

permission from the landowner or ~~((his or her duly))~~
the landowner's authorized agent or representative;
or

(4) Harvest huckleberries in any amount using a rake, mechanical device, or any other method that damages the huckleberry bush.

Sec. 15. RCW 76.48.120 and 2008 c 191 s 7 are each amended to read as follows:

(1) It is unlawful for any person, upon official inquiry, investigation, or other authorized proceedings, to:

(a) Offer as genuine any paper, document, or other instrument in writing purporting to be a specialized forest products permit, ~~((or))~~ true copy ~~((thereof))~~ of a permit, authorization, sales invoice, ~~((or))~~ bill of lading, or other document required under this chapter; or

(b) To make any representation of authority to possess or conduct harvesting or transporting of specialized forest products, or to conduct the sale of huckleberries, ~~((knowing the same to be))~~ with knowledge that the representation of authority is in any manner false, fraudulent, forged, or stolen.

(2) It is unlawful for any person to produce a document for a first or secondary specialized forest products buyer purporting to be a true and genuine permit when delivering or attempting to deliver a specialized forest product with knowledge that the document is in any manner false, fraudulent, forged, or stolen.

(3) Any person who knowingly or intentionally violates this section is guilty of a class C felony

punishable by imprisonment in a state correctional institution for a maximum term fixed by the court of not more than five years or by a fine of not more than five thousand dollars, or by both imprisonment and fine.

~~((3) Whenever any law enforcement officer reasonably suspects that a specialized forest products permit or true copy thereof, authorization, sales invoice, or bill of lading is forged, fraudulent, or stolen, it may be retained by the officer until its authenticity can be verified.))~~

Sec. 16. RCW 76.48.130 and 2007 c 392 s 1 are each amended to read as follows:

(1) Except as provided in RCW 76.48.120 (as recodified by this act), a person who violates a provision of this chapter ~~((, other than the provisions contained in RCW 76.48.120, as now or hereafter amended,))~~ is guilty of a gross misdemeanor ~~((and upon conviction thereof shall be punished))~~ punishable by a fine of not more than one thousand dollars ~~((or by))~~ , imprisonment in the county jail for a term not to exceed one year , or by both a fine and imprisonment.

(2) In any prosecution for a violation of this chapter's requirements to obtain or possess a specialized forest products permit ~~((or))~~ , true copy ~~((thereof, an authorization, sales invoice, or))~~ , bill of lading, authorization, or sales invoice, it is an affirmative defense, if established by the defendant by a preponderance of the evidence, that:

(a) The specialized forest products were harvested from the defendant's own land; or

(b) The specialized forest products were harvested with the permission of the landowner.

NEW SECTION. **Sec. 17.** A new section is added to chapter 76.48 RCW to read as follows:

(1) The court presiding over the conviction of any person for a violation of RCW 76.48.120 or 76.48.130 (as recodified by this act) who has been convicted of violating either RCW 76.48.120 or 76.48.130 (as recodified by this act) at least two other times shall order up to a three-year suspension of that person's privilege to obtain a specialized forest products permit under this chapter.

(2) If a court issues a suspension under this section after a conviction involving the misuse of a permit with a specified permittor, the legislature requests that the court notify the permittor listed on the permit of the suspension.

(3) Nothing in this section limits the ability of a court to order the suspension of any privileges related to specialized forest products as a condition of probation regardless of whether the person has any past convictions.

Sec. 18. RCW 76.48.140 and 2005 c 401 s 12 are each amended to read as follows:

All fines collected for violations of (~~any provision of~~) this chapter shall be paid into the general fund of the county treasury of the county in which the violation occurred and distributed equally among the district courts in the county, the county sheriff's office, and the (~~county's general fund~~) state treasurer. The portion of the revenue provided

to the state treasurer must be distributed to the specialized forest products outreach and education account created in section 26 of this act.

Sec. 19. RCW 76.48.040 and 1995 c 366 s 3 are each amended to read as follows:

~~((Agencies charged with the enforcement of this chapter shall include, but not be limited to,))~~ (1) Primary enforcement responsibility of this chapter belongs with county sheriffs. However, other entities that may enforce this chapter include:

(a) The department;

(b) The Washington state patrol~~((county sheriffs and their deputies,))~~ ;

(c) County or municipal police forces~~((,))~~ ;

(d) Authorized personnel of the United States forest service~~((,))~~ ; and

(e) Authorized personnel of the department~~((s of natural resources and))~~ of fish and wildlife.

~~((Primary enforcement responsibility lies in the county sheriffs and their deputies.))~~

(2) The legislature encourages county sheriffs' offices to enter into interlocal agreements with these other agencies in order to receive additional assistance with their enforcement responsibilities.

NEW SECTION. **Sec. 20.** A new section is added to chapter 76.48 RCW to read as follows:

(1) A law enforcement officer may take into custody and detain for a reasonable time any specialized forest products, authorizations, sales invoices, bills of lading, other documents, and vehicles in which the specialized forest products

were transported if, under official inquiry, investigation, or other authorized proceeding regarding specialized forest products not covered by a valid permit or other acceptable document as provided in this chapter, the inspecting law enforcement officer has probable cause to believe that the specialized forest products were obtained in violation of this chapter until the true origin of the specialized forest products can be determined.

(2) A law enforcement officer may retain a specialized forest products permit, true copy of a permit, authorization, sales invoice, bill of lading, or other document required under this chapter if the officer reasonably suspects that the document is forged in violation of RCW 76.48.120 (as recodified by this act), fraudulent, or stolen, until the authenticity of the document can be verified.

(3) (a) If no arrest is made at the conclusion of the official inquiry, investigation, or other authorized proceeding for a violation of this chapter or another state law, all materials detained under this section must be returned to the person or persons from whom the materials were taken.

(b) (i) If an arrest does follow the inquiry, investigation, or authorized proceeding, and the law enforcement officer has probable cause to believe that a person is selling or attempting to sell huckleberries, or is harvesting, in possession of, or transporting specialized forest products in violation of this chapter, any specialized forest products or huckleberries found at the time of arrest may be seized.

(ii) If the specialized forest product triggering the arrest is specialty wood, the law enforcement officer may also seize any equipment, vehicles, tools, or paperwork associated with the arrest.

(c) Materials seized under this chapter are subject to the provisions of RCW 76.48.110 (as recodified by this act).

Sec. 21. RCW 76.48.110 and 2008 c 191 s 6 are each amended to read as follows:

~~(1) ((Whenever any law enforcement officer has probable cause to believe that a person is harvesting or is in possession of or transporting specialized forest products, or selling or attempting to sell huckleberries, in violation of the provisions of this chapter, he or she may, at the time of making an arrest, seize and take possession of any specialized forest products or huckleberries found.~~

~~— If the specialized forest product is a cedar product, cedar salvage, or specialty wood, at the time of making an arrest the law enforcement officer may seize and take possession of any equipment, vehicles, tools, or paperwork. The law enforcement officer shall provide)) (a) Reasonable protection must be provided for ((the)) any equipment, vehicles, tools, paperwork, huckleberries, or specialized forest products ((involved)) seized under section 20 of this act during the period of ((litigation or he or she shall dispose of the equipment, vehicles, tools, paperwork, or specialized forest products at the discretion or order of)) adjudication unless the court before which the arrested person is ordered to~~

appear orders the disposal of any or all of the seized materials.

(b) Given the perishable nature of huckleberries and specialized forest products, the seizing agency may sell the product at fair market value and retain all proceeds until a final disposition of the case has been reached.

(2) Upon any disposition of the case by the court, the court shall:

(a) Make a reasonable effort to return (~~the equipment, vehicles, tools, paperwork, huckleberries, or specialized forest products~~) all materials seized under section 20 of this act to its (~~rightful~~) lawful owner or owners; or

(b) Order the disposal of or return of any or all materials seized under this section, including tools, vehicles, equipment, paperwork, or specialized forest products.

(3) If the court orders the disposal of seized materials, it may:

(a) Pay the proceeds of any sale of seized specialized forest products or huckleberries, less any reasonable expenses of the sale, to the (~~rightful~~) lawful owner; or

(b) Pay the proceeds of any sale of seized tools, equipment, or vehicles, less any reasonable expenses of the sale or, if applicable, towards any outstanding court costs, and then to the lawful owner or owners.

(4) If, for any reason, the proceeds of (~~the~~) any sale of materials seized under this section cannot be (~~disposed of~~) provided to the (~~rightful~~) lawful owner, the proceeds of the sale, less (~~the~~)

reasonable expenses (~~of~~) relating to the sale,
shall be paid to the treasurer of the county in which
the violation occurred(~~(. The county treasurer shall~~
~~deposit the same in)~~) for deposit into the county
general fund and for distribution equally among the
district courts in the county, the county sheriff's
office, and the state treasurer. The portion of the
revenue provided to the state treasurer must be
distributed to the specialized forest products
outreach and education account created in section 26
of this act.

(5) The owner or owners of materials seized under
section 20 of this act must be offered an opportunity
to appeal an order for the disposal of the seized
materials.

(6) The return of (~~the equipment, vehicles, tools,~~
~~paperwork, or specialized forest products)~~) materials
seized under section 20 of this act, or the payment
of the proceeds of any sale of products seized to the
owner, shall not preclude the court from imposing any
fine or penalty upon the violator for the violation
of the provisions of this chapter.

Sec. 22. RCW 76.48.100 and 2005 c 401 s 10 are
each amended to read as follows:

(~~The provisions of~~) Except as otherwise
conditioned, this chapter (~~do~~) does not apply to:

(1) Nursery grown products.

(2) The following products when harvested
concurrently with timber stands under an approved
forest practices application or notification under
chapter 76.09 RCW and when the person harvesting is
able to provide a forest practices application or

notification identification and load ticket number,
or under a contract or permit issued by an agency of
the United States government:

(a) Logs (~~((except as included in the definition~~
of "cedar salvage" under RCW 76.48.020),);

(b) Speciality wood;

(c) Cut or picked evergreen foliage;

(d) Poles((~~τ~~));

(e) Pilings((~~τ~~)); or

(f) Other major forest products from which
substantially all of the limbs and branches have been
removed(~~((~~τ~~ specialty wood, and cedar salvage when~~
~~harvested concurrently with timber stands (a) under~~
~~an approved forest practices application or~~
~~notification, or (b) under a contract or permit~~
~~issued by an agency of the United States~~
~~government))~~).

(3) (~~The activities of a~~) Noncommercial
harvest, transportation, or possession by the
landowner, ((his or her)) the landowner's agent~~((~~τ~~~~
~~or~~)), representative, ((or of a lessee of land in
~~carrying on noncommercial property management,~~
~~maintenance, or improvements on or in connection with~~
~~the land of the landowner))~~ or lessee of specialized
forest products originating from property belonging
to the landowner.

(4) Harvest, transportation, or possession of
specialized forest products by:

(a) A governmental entity or the entity's agent
for the purposes of clearing or maintaining the
governmental entity's right-of-way or easement; or

(b) A public or regulated utility or the

utility's agent for the purpose of clearing or maintaining the utility's right-of-way or easement.

Sec. 23. RCW 76.48.210 and 2008 c 191 s 1 are each amended to read as follows:

~~(1) ((Except as otherwise provided in this section, no person may sell, or attempt to sell, any amount of raw or unprocessed huckleberries without first obtaining a specialized forest products permit as provided in RCW 76.48.060, regardless if the huckleberries were harvested with the consent of the landowner.~~

~~——(2) If the possessor of the huckleberries being offered for sale is able to show that the huckleberries originated on land owned by the United States forest service, then the requirements of this section may be satisfied with the display of a valid permit from the United States forest service that lawfully entitles the possessor to harvest the huckleberries in question.~~

~~——(3)) Nothing in ((this section)) RCW 76.48.060 (as recodified by this act) creates a requirement that a specialized forest products permit is required for an individual to harvest, possess, or transport huckleberries.~~

~~((4)) (2) Compliance with ((this section)) RCW 76.48.060 (as recodified by this act) allows an individual to sell, or offer for sale, raw or unprocessed huckleberries. Possession of a specialized forest products permit does not create a right or privilege to harvest huckleberries. Huckleberries may be harvested only with the permission of the landowner and under the terms and~~

conditions established between the landowner and the harvester.

Sec. 24. RCW 76.48.150 and 2005 c 401 s 13 are each amended to read as follows:

(1) ~~The department ((of natural resources is the designated agency to develop and print the specialized forest products permit and distribute it to the county sheriffs. In addition, the department of natural resources))~~ shall develop educational material ~~((and other))~~, including printed information, for law enforcement, forest landowners, and specialized forest products ((harvesters)) permittees, buyers, and processors specific to this chapter.

(2) The department is encouraged to foster partnerships with federal agencies, other state agencies, universities, local governments, and private interests in order to minimize educational and outreach expenses.

Sec. 25. RCW 76.48.200 and 2008 c 191 s 8 are each amended to read as follows:

(1) Minority groups have long been participants in the specialized forest products and huckleberry harvesting industry. The legislature encourages agencies serving minority communities, community-based organizations, refugee centers, social service agencies, agencies and organizations with expertise in the specialized forest products and huckleberry harvesting ~~((industry))~~ industries, and other interested groups to work cooperatively to accomplish the following purposes:

~~((1))~~ (a) To provide assistance and make referrals on translation services and to assist in translating educational materials, laws, and rules regarding specialized forest products and huckleberries;

~~((2))~~ (b) To hold clinics to teach techniques for effective picking; and

~~((3))~~ (c) To work with both minority and nonminority permittees in order to protect resources and foster understanding between minority and nonminority permittees.

(2) To the extent practicable within their existing resources, the department, the state commission on ~~((Asian-American))~~ Asian Pacific American affairs created in RCW 43.117.030, and the state commission on Hispanic affairs created in RCW 43.115.020 ~~((, and the department of natural resources))~~ are encouraged to coordinate ~~((this effort))~~ efforts under this chapter.

NEW SECTION. Sec. 26. A new section is added to chapter 76.48 RCW to read as follows:

The specialized forest products outreach and education account is created in the custody of the state treasurer. All receipts from RCW 76.48.140 and 76.48.110 (as recodified by this act), any legislative appropriations, private donations, or any other private or public source directed to the account must be deposited in the account.

Expenditures from the account may only be used by the department for funding activities under RCW 76.48.150 and 76.48.200 (as recodified by this act). Only the commissioner of public lands or the commissioner's

designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 27. RCW 76.48.902 and 1979 ex.s. c 94 s 17 are each amended to read as follows:

If any provision of this act or this chapter or its application to any person or circumstance is held invalid, the remainder of the act or this chapter or the application of the provision to other persons or circumstances is not affected.

Sec. 28. RCW 76.48.910 and 1967 ex.s. c 47 s 16 are each amended to read as follows:

This chapter is not intended to repeal, supersede, or modify any provision of existing law.

NEW SECTION. **Sec. 29.** The following sections are codified or recodified in chapter 76.48 RCW in the following order:

RCW 76.48.010;

RCW 76.48.020;

RCW 76.48.060;

RCW 76.48.080;

Section 6 of this act;

Section 7 of this act;

Section 8 of this act;

RCW 76.48.050;

RCW 76.48.062;

RCW 76.48.094;

RCW 76.48.085;

RCW 76.48.098;

RCW 76.48.030;
RCW 76.48.120;
RCW 76.48.130;
section 17 of this act;
RCW 76.48.140;
RCW 76.48.040;
Section 20 of this act;
RCW 76.48.110;
RCW 76.48.100;
RCW 76.48.210;
RCW 76.48.150;
RCW 76.48.200;
Section 26 of this act;
RCW 76.48.900;
RCW 76.48.902; and
RCW 76.48.910.

NEW SECTION. **Sec. 30.** The following acts or parts of acts are each repealed:

(1) RCW 76.48.070 (Transporting or possessing cedar or other specialized forest products-- Requirements) and 2005 c 401 s 4, 1995 c 366 s 6, 1992 c 184 s 3, 1979 ex.s. c 94 s 6, 1977 ex.s. c 147 s 6, & 1967 ex.s. c 47 s 8;

(2) RCW 76.48.086 (Records of buyers available for research) and 2008 c 191 s 5 & 1995 c 366 s 16;

(3) RCW 76.48.096 (Obtaining products from suppliers not having specialized forest products permit unlawful) and 2005 c 401 s 8, 1995 c 366 s 8, 1979 ex.s. c 94 s 10, & 1977 ex.s. c 147 s 12; and

(4) RCW 76.48.075 (Specialized forest products from out-of-state) and 2005 c 401 s 5, 1995 c 366 s 7, & 1979 ex.s. c 94 s 15.

NEW SECTION. **Sec. 31.** RCW 76.48.901 is decodified.