

Chapter 76.13 RCW
STEWARDSHIP OF NONINDUSTRIAL FORESTS AND WOODLANDS

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RCW 76.13.005 Finding. The legislature hereby finds and declares that:

(1) Over half of the private forest and woodland acreage in Washington is owned by landowners with less than five thousand acres who are not in the business of industrial handling or processing of timber products.

(2) Nonindustrial forests and woodlands are absorbing more demands and impacts on timber, fish, wildlife, water, recreation, and aesthetic resources, due to population growth and a shrinking commercial forestland base.

(3) Nonindustrial forests and woodlands provide valuable habitat for many of the state's numerous fish, wildlife, and plant species, including some threatened and endangered species, and many habitats can be protected and improved through knowledgeable forest resource stewardship.

(4) Providing for long-term stewardship of nonindustrial forests and woodlands in growth areas and rural areas is an important factor in maintaining Washington's special character and quality of life.

(5) In order to encourage and maintain nonindustrial forests and woodlands for their present and future benefit to all citizens, Washington's nonindustrial forest and woodland owners' long-term commitments to stewardship of forest resources must be recognized and supported by the citizens of Washington state. [1991 c 27 § 1.]

RCW 76.13.007 Purpose. The purpose of this chapter is to:

(1) Promote the coordination and delivery of services with federal, state, and local agencies, colleges and universities, landowner assistance organizations, consultants, forest resource-related industries and environmental organizations to nonindustrial forest and woodland owners.

(2) Facilitate the production of forest products, enhancement of wildlife and fisheries, protection of streams and wetlands, culturing of special plants, availability of recreation opportunities and the maintenance of scenic beauty for the enjoyment and benefit of nonindustrial forest and woodland owners and the citizens of Washington by meeting the landowners' stewardship objectives. [1991 c 27 § 2.]

RCW 76.13.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply to RCW 76.13.005, 76.13.007, 76.13.020, and 76.13.030.

(1) "Cooperating organization" means federal, state, and local agencies, colleges and universities, landowner assistance organizations, consultants, forest resource-related industries, and environmental organizations which promote and maintain programs designed to provide information and technical assistance services to nonindustrial forest and woodland owners.

(2) "Department" means the department of natural resources.

(3) "Landowner" means an individual, partnership, private, public or municipal corporation, Indian tribe, state agency, county, or local government entity, educational institution, or association of individuals of whatever nature that own nonindustrial forests and woodlands.

(4) "Nonindustrial forests and woodlands" are those suburban acreages and rural lands supporting or capable of supporting trees and other flora and fauna associated with a forest ecosystem, comprised of total individual land ownerships of less than five thousand acres and not directly associated with wood processing or handling facilities.

(5) "Stewardship" means managing by caring for, promoting, protecting, renewing, or reestablishing or both, forests and associated resources for the benefit of the landowner, the natural resources and the citizens of Washington state, in accordance with each landowner's objectives, best management practices, and legal requirements. [2000 c 11 § 11; 1999 sp.s. c 4 § 502; 1991 c 27 § 3.]

Part headings not law—1999 sp.s. c 4: See note following RCW 77.85.180.

RCW 76.13.020 Authority. In order to accomplish the purposes stated in RCW 76.13.007, the department may:

(1) Establish and maintain a nonindustrial forest and woodland owner assistance program, and through such a program, assist nonindustrial forest and woodland owners in meeting their stewardship objectives.

(2) Provide direct technical assistance through development of management plans, advice, and information to nonindustrial forestland owners to meet their stewardship objectives.

(3) Assist and facilitate efforts of cooperating organizations to provide stewardship education, information, technical assistance, and incentives to nonindustrial forest and woodland owners.

(4) Provide financial assistance to landowners and cooperating organizations.

(5) Appoint a stewardship advisory committee to assist in establishing and operating this program.

(6) Loan or rent surplus equipment to assist cooperating organizations and nonindustrial forest and woodland owners.

(7) Work with local governments to explain the importance of maintaining nonindustrial forests and woodlands.

(8) Take such other steps as are necessary to carry out the purposes of this chapter. [1991 c 27 § 4.]

RCW 76.13.030 Funding sources—Fees—Contracts. The department may:

(1) Receive and disburse any and all moneys contributed, allotted, or paid by the United States under authority of any act of congress for the purposes of this chapter.

(2) Receive such gifts, grants, bequests, and endowments and donations of moneys, labor, material, seedlings, and equipment from public or private sources as may be made for the purpose of carrying out the provisions of this chapter and may spend the gifts, grants, bequests, endowments, and donations as well as other moneys from public or private sources according to their terms.

(3) Charge fees for attendance at workshops and conferences, for various publications and other materials which the department may prepare.

(4) Enter into contracts with cooperating organizations having responsibility to carry out programs of similar purposes to this chapter. [1991 c 27 § 5.]

RCW 76.13.100 Findings. (1) The legislature finds that increasing regulatory requirements continue to diminish the economic viability of small forestland owners. The concerns set forth in RCW 77.85.180 about the importance of sustaining forestry as a viable land use are particularly applicable to small landowners because of the location of their holdings, the expected complexity of the regulatory requirements, and the need for significant technical expertise not readily available to small landowners. The further reduction in harvestable timber owned by small forestland owners as a result of the rules to be adopted under RCW 76.09.055 will further erode small landowners' economic viability and willingness or ability to keep the lands in forestry use and, therefore, reduce the amount of habitat available for salmon recovery and conservation of other aquatic resources, as defined in RCW 76.09.020.

(2) The legislature finds that the concerns identified in subsection (1) of this section should be addressed by establishing within the department of natural resources a small forestland owner office that shall be a resource and focal point for small forestland owner concerns and policies. The legislature further finds that a forestry riparian easement program shall be established to acquire easements from small landowners along riparian and other areas of value to the state for protection of aquatic resources. The legislature further finds that small forestland owners should have the option of alternate management plans or alternate harvest restrictions on smaller harvest units that may have a relatively low impact on aquatic resources. The small forestland owner office should be responsible for assisting small landowners in the development and implementation of these plans or restrictions. [2003 c 39 § 36; 1999 imp.s. c 4 § 501.]

Part headings not law—1999 sp.s. c 4: See note following RCW 77.85.180.

RCW 76.13.110 Small forestland owner office—Establishment—Duties—Advisory committee—Report to the legislature.

(1) The department of natural resources shall establish and maintain a small forestland owner office. The small forestland owner office shall be a resource and focal point for small forestland owner concerns and policies, and shall have significant expertise regarding the management of small forest holdings, governmental programs applicable to such holdings, and the forestry riparian easement program.

(2) The small forestland owner office shall administer the provisions of the forestry riparian easement program created under RCW 76.13.120.

(3) The small forestland owner office shall assist in the development of small landowner options through alternate management plans or alternate harvest restrictions appropriate to small landowners. The small forestland owner office shall develop criteria to be adopted by the forest practices board in rules and a manual for alternate management plans or alternate harvest restrictions. These alternate plans or alternate harvest restrictions shall meet riparian functions while requiring less costly regulatory prescriptions. At the landowner's option, alternate plans or alternate harvest restrictions may be used to further meet riparian functions.

The small forestland owner office shall evaluate the cumulative impact of such alternate management plans or alternate harvest restrictions on essential riparian functions at the subbasin or watershed level. The small forestland owner office shall adjust future alternate management plans or alternate harvest restrictions in a manner that will minimize the negative impacts on essential riparian functions within a subbasin or watershed.

(4) An advisory committee is established to assist the small forestland owner office in developing policy and recommending rules to the forest practices board. The advisory committee shall consist of seven members, including a representative from the department of ecology, the department of fish and wildlife, and a tribal representative. Four additional committee members shall be small forestland owners who shall be appointed by the commissioner of public lands from a list of candidates submitted by the board of directors of the Washington farm forestry association or its successor organization. The association shall submit more than one candidate for each position. The commissioner shall designate two of the initial small forestland owner appointees to serve five-year terms and the other two small forestland owner appointees to serve four-year terms. Thereafter, appointees shall serve for a term of four years. The small forestland owner office shall review draft rules or rule concepts with the committee prior to recommending such rules to the forest practices board. The office shall reimburse nongovernmental committee members for reasonable expenses associated with attending committee meetings as provided in RCW 43.03.050 and 43.03.060.

(5) By December 1, 2002, the small forestland owner office shall provide a report to the board and the legislature containing:

(a) Estimates of the amounts of nonindustrial forests and woodlands in holdings of twenty acres or less, twenty-one to one hundred acres, one hundred to one thousand acres, and one thousand to

five thousand acres, in western Washington and eastern Washington, and the number of persons having total nonindustrial forest and woodland holdings in those size ranges;

(b) Estimates of the number of parcels of nonindustrial forests and woodlands held in contiguous ownerships of twenty acres or less, and the percentages of those parcels containing improvements used: (i) As primary residences for half or more of most years; (ii) as vacation homes or other temporary residences for less than half of most years; and (iii) for other uses;

(c) The watershed administrative units in which significant portions of the riparian areas or total land area are nonindustrial forests and woodlands;

(d) Estimates of the number of forest practices applications and notifications filed per year for forest road construction, silvicultural activities to enhance timber growth, timber harvest not associated with conversion to nonforestland uses, with estimates of the number of acres of nonindustrial forests and woodlands on which forest practices are conducted under those applications and notifications; and

(e) Recommendations on ways the board and the legislature could provide more effective incentives to encourage continued management of nonindustrial forests and woodlands for forestry uses in ways that better protect salmon, other fish and wildlife, water quality, and other environmental values.

(6) By December 1, 2004, and every four years thereafter, the small forestland owner office shall provide to the board and the legislature an update of the report described in subsection (5) of this section, containing more recent information and describing:

(a) Trends in the items estimated under subsection (5)(a) through (d) of this section;

(b) Whether, how, and to what extent the forest practices act and rules contributed to those trends; and

(c) Whether, how, and to what extent: (i) The board and legislature implemented recommendations made in the previous report; and (ii) implementation of or failure to implement those recommendations affected those trends. [2002 c 120 § 1; 2001 c 280 § 1; 2000 c 11 § 12; 1999 sp.s. c 4 § 503.]

Part headings not law—1999 sp.s. c 4: See note following RCW 77.85.180.

RCW 76.13.120 Findings—Definitions—Forestry riparian easement program. (1) The legislature finds that the state should acquire easements primarily along riparian and other sensitive aquatic areas from qualifying small forestland owners willing to sell or donate easements to the state provided that the state will not be required to acquire the easements if they are subject to unacceptable liabilities. Therefore the legislature establishes a forestry riparian easement program.

(2) The definitions in this subsection apply throughout this section and RCW 76.13.100, 76.13.110, 76.13.140, and 76.13.160 unless the context clearly requires otherwise.

(a) "Forestry riparian easement" means an easement covering qualifying timber granted voluntarily to the state by a qualifying small forestland owner.

(b) "Qualifying small forestland owner" means a landowner meeting all of the following characteristics as of the date the department offers compensation for a forestry riparian easement:

(i) Is a small forestland owner as defined in (d) of this subsection; and

(ii) Is an individual, partnership, corporation, or other nongovernmental for-profit legal entity.

(c) "Qualifying timber" means those forest trees for which the small forestland owner is willing to grant the state a forestry riparian easement and meets all of the following:

(i) The forest trees are covered by a forest practices application that the small forestland owner is required to leave unharvested under the rules adopted under RCW 76.09.040, 76.09.055, and 76.09.370 or that is made uneconomic to harvest by those rules;

(ii) The forest trees are within or bordering a commercially reasonable harvest unit as determined under rules adopted by the forest practices board, or for which an approved forest practices application for timber harvest cannot be obtained because of restrictions under the forest practices rules;

(iii) The forest trees are located within, or affected by forest practices rules pertaining to any one, or all, of the following:

(A) Riparian or other sensitive aquatic areas;

(B) Channel migration zones; or

(C) Areas of potentially unstable slopes or landforms, verified by the department, and must meet all of the following:

(I) Are addressed in a forest practices application;

(II) Are adjacent to a commercially reasonable harvest area; and

(III) Have the potential to deliver sediment or debris to a public resource or threaten public safety.

(d) "Small forestland owner" means a landowner meeting all of the following characteristics:

(i) A forestland owner as defined in RCW 76.09.020 whose interest in the land and timber is in fee or who has rights to the timber to be included in the forestry riparian easement that extend at least fifty years from the date the completed forestry riparian easement application associated with the easement is submitted;

(ii) An entity that has harvested from its own lands in this state during the three years prior to the year of application an average timber volume that would qualify the owner as a small harvester under RCW 84.33.035; and

(iii) An entity that certifies at the time of application that it does not expect to harvest from its own lands more than the volume allowed by RCW 84.33.035 during the ten years following application. If a landowner's prior three-year average harvest exceeds the limit of RCW 84.33.035, or the landowner expects to exceed this limit during the ten years following application, and that landowner establishes to the department's reasonable satisfaction that the harvest limits were or will be exceeded to raise funds to pay estate taxes or equally compelling and unexpected obligations such as court-ordered judgments or extraordinary medical expenses, the landowner shall be deemed to be a small forestland owner. For purposes of determining whether a person qualifies as a small forestland owner, the small forestland owner office, created in RCW 76.13.110, shall evaluate the landowner under this definition, pursuant to RCW 76.13.160, as of the date that the forest practices application is submitted and the date that the department offers compensation for the forestry riparian easement. A small forestland owner can include an individual, partnership,

corporation, or other nongovernmental legal entity. If a landowner grants timber rights to another entity for less than five years, the landowner may still qualify as a small forestland owner under this section. If a landowner is unable to obtain an approved forest practices application for timber harvest for any of his or her land because of restrictions under the forest practices rules, the landowner may still qualify as a small forestland owner under this section.

(e) "Completion of harvest" means that the trees have been harvested from an area and that further entry into that area by mechanized logging or slash treating equipment is not expected.

(3) The department is authorized and directed to accept and hold in the name of the state of Washington forestry riparian easements granted by qualifying small forestland owners covering qualifying timber and to pay compensation to the landowners in accordance with this section. The department may not transfer the easements to any entity other than another state agency.

(4) Forestry riparian easements shall be effective for fifty years from the date of the completed forestry riparian easement application, unless the easement is voluntarily terminated earlier by the department, based on a determination that termination is in the best interest of the state, or under the terms of a termination clause in the easement.

(5) Forestry riparian easements shall be restrictive only, and shall preserve all lawful uses of the easement premises by the landowner that are consistent with the terms of the easement and the requirement to protect riparian functions during the term of the easement, subject to the restriction that the leave trees required by the rules to be left on the easement premises may not be cut during the term of the easement. No right of public access to or across, or any public use of the easement premises is created by this statute or by the easement. Forestry riparian easements shall not be deemed to trigger the compensating tax of or otherwise disqualify land from being taxed under chapter 84.33 or 84.34 RCW.

(6) The small forestland owner office shall determine what constitutes a completed application for a forestry riparian easement. An application shall, at a minimum, include documentation of the owner's status as a qualifying small forestland owner, identification of location and the types of qualifying timber, and notification of completion of harvest, if applicable.

(7) Upon receipt of the qualifying small forestland owner's forestry riparian easement application, and subject to the availability of amounts appropriated for this specific purpose, the following must occur:

(a) The small forestland owner office must determine the compensation to be offered to the qualifying small forestland owner for qualifying timber after the department accepts the completed forestry riparian easement application and the landowner has completed marking the boundary of the area containing the qualifying timber. The legislature recognizes that there is not readily available market transaction evidence of value for easements of the nature required by this section, and thus establishes the methodology provided in this subsection to ascertain the value for forestry riparian easements. Values so determined may not be considered competent evidence of value for any other purpose.

(b) The small forestland owner office, subject to the availability of amounts appropriated for this specific purpose, is

responsible for assessing the volume of qualifying timber. However, no more than fifty percent of the total amounts appropriated for the forestry riparian easement program may be applied to determine the volume of qualifying timber for completed forestry riparian easement applications. Based on the volume established by the small forestland owner office and using data obtained or maintained by the department of revenue under RCW 84.33.074 and 84.33.091, the small forestland owner office shall attempt to determine the fair market value of the qualifying timber as of the date the complete forestry riparian easement application is received. Removal of any qualifying timber before the expiration of the easement must be in accordance with the forest practices rules and the terms of the easement. There shall be no reduction in compensation for reentry.

(8) (a) Except as provided in subsection (9) of this section and subject to the availability of amounts appropriated for this specific purpose, the small forestland owner office shall offer compensation for qualifying timber to the qualifying small forestland owner in the amount of fifty percent of the value determined by the small forestland owner office, plus the compliance and reimbursement costs as determined in accordance with RCW 76.13.140. However, compensation for any qualifying small forestland owner for qualifying timber located on potentially unstable slopes or landforms may not exceed a total of fifty thousand dollars during any biennial funding period.

(b) If the landowner accepts the offer for qualifying timber, the department shall pay the compensation promptly upon:

(i) Completion of harvest in the area within a commercially reasonable harvest unit with which the forestry riparian easement is associated under an approved forest practices application, unless an approved forest practices application for timber harvest cannot be obtained because of restrictions under the forest practices rules;

(ii) Verification that the landowner has no outstanding violations under chapter 76.09 RCW or any associated rules; and

(iii) Execution and delivery of the easement to the department.

(c) Upon donation or payment of compensation, the department may record the easement.

(9) For approved forest practices applications for which the regulatory impact is greater than the average percentage impact for all small forestland owners as determined by an analysis by the department under the regulatory fairness act, chapter 19.85 RCW, the compensation offered will be increased to one hundred percent for that portion of the regulatory impact that is in excess of the average. Regulatory impact includes all trees identified as qualifying timber. A separate average or high impact regulatory threshold shall be established for western and eastern Washington. Criteria for these measurements and payments shall be established by the small forestland owner office.

(10) The forest practices board shall adopt rules under the administrative procedure act, chapter 34.05 RCW, to implement the forestry riparian easement program, including the following:

(a) A standard version of a forestry riparian easement application as well as all additional documents necessary or advisable to create the forestry riparian easements as provided for in this section;

(b) Standards for descriptions of the easement premises with a degree of precision that is reasonable in relation to the values involved;

(c) Methods and standards for cruises and valuation of forestry riparian easements for purposes of establishing the compensation. The department shall perform the timber cruises of forestry riparian easements required under this chapter and chapter 76.09 RCW. Timber cruises are subject to amounts appropriated for this purpose. However, no more than fifty percent of the total appropriated funding for the forestry riparian easement program may be applied to determine the volume of qualifying timber for completed forestry riparian easement applications. Any rules concerning the methods and standards for valuations of forestry riparian easements shall apply only to the department, qualifying small forestland owners, and the small forestland owner office;

(d) A method to determine that a forest practices application involves a commercially reasonable harvest, and adopt criteria for entering into a forestry riparian easement where a commercially reasonable harvest is not possible or a forest practices application that has been submitted cannot be approved because of restrictions under the forest practices rules;

(e) A method to address blowdown of qualified timber falling outside the easement premises;

(f) A formula for sharing of proceeds in relation to the acquisition of qualified timber covered by an easement through the exercise or threats of eminent domain by a federal or state agency with eminent domain authority, based on the present value of the department's and the landowner's relative interests in the qualified timber;

(g) High impact regulatory thresholds;

(h) A method to determine timber that is qualifying timber because it is rendered uneconomic to harvest by the rules adopted under RCW 76.09.055 and 76.09.370;

(i) A method for internal department review of small forestland owner office compensation decisions under this section; and

(j) Consistent with RCW 76.13.180, a method to collect reimbursement from landowners who received compensation for a forestry riparian easement and who, within the first ten years after receipt of compensation for a forestry riparian easement, sells the land on which an easement is located to a nonqualifying landowner.

(11) The legislature finds that the overall societal benefits of economically viable working forests are multiple, and include the protection of clean, cold water, the provision of wildlife habitat, the sheltering of cultural resources from development, and the natural carbon storage potential of growing trees. As such, working forests and the forest [forestry] riparian easement program may be part of the state's overall carbon sequestration strategy. If the state creates a climate strategy, the department must share information regarding the carbon sequestration benefits of the forest [forestry] riparian easement program with other state programs using methods and protocols established in the state climate strategy that attempt to quantify carbon storage or account for carbon emissions. The department must promote the expansion of funding for the forest [forestry] riparian easement program and the ecosystem services supported by the program based on the findings stated in RCW 76.13.100. Nothing in this subsection allows a landowner to be reimbursed by the state more than once for the same forest riparian easement application. [2017 c 140 § 1; 2011 c 218 § 1; 2004 c 102 § 1; 2002 c 120 § 2; 2001 c 280 § 2; 2000 c 11 § 13; 1999 sp.s. c 4 § 504.]

Part headings not law—1999 sp.s. c 4: See note following RCW 77.85.180.

RCW 76.13.130 Small parcels—Alternative management plans. On parcels of twenty contiguous acres or less, landowners with a total parcel ownership of less than eighty acres shall not be required to leave riparian buffers adjacent to streams according to forest practices rules adopted under the forests and fish report as defined in RCW 76.09.020. These landowners shall be subject to the permanent forest practices rules in effect as of January 1, 1999, but may additionally be required to leave timber adjacent to streams that is equivalent to no greater than fifteen percent of a volume of timber contained in a stand of well managed fifty-year old commercial timber covering the harvest area. The additional fifteen percent leave tree level shall be computed as a rotating stand volume and shall be regulated through flexible forest practices as the stream buffer is managed over time to meet riparian functions.

On parcels of twenty contiguous acres or less the small forestland owner office shall work with landowners with a total parcel ownership of less than eighty acres to develop alternative management plans for riparian buffers. Such alternative plans shall provide for the removal of leave trees as other new trees grow in order to ensure the most effective protection of critical riparian function. The office may recommend reasonable modifications in alternative management plans of such landowners to further reduce risks to public resources and endangered species so long as the anticipated operating costs are not unreasonably increased and the landowner is not required to leave a greater volume than the threshold level. To qualify for the provisions of this section, parcels must be twenty acres or less in contiguous ownership, and owners cannot have ownership interests in a total of more than eighty acres of forestlands within the state. [1999 sp.s. c 4 § 505.]

Part headings not law—1999 sp.s. c 4: See note following RCW 77.85.180.

RCW 76.13.140 Small forestland owners—Value of buffer trees. In order to assist small forestland owners to remain economically viable, the legislature intends that the qualifying small forestland owners be able to net fifty percent of the value of the trees left in the buffer areas. The amount of compensation offered in RCW 76.13.120 shall also include the compliance costs for participation in the forestry riparian easement program, including the cost of preparing and recording the forestry riparian easement, and any business and occupation tax and real estate excise tax imposed because of entering into the forestry riparian easement. The small forestland owner office may contract with private consultants that the office finds qualified to perform timber cruises of forestry riparian easements or to lay out streamside buffers and comply with other forest practices regulatory requirements related to the forestry riparian easement program. The department shall reimburse qualifying small forestland owners for the actual costs incurred for laying out the streamside buffers and marking the qualifying timber once a contract has been executed for the forestry riparian easement program. Reimbursement is subject to

the work being acceptable to the department. The small forestland owner office shall determine how the reimbursement costs will be calculated. [2011 c 218 § 2; 2002 c 120 § 3; 2001 c 280 § 3.]

RCW 76.13.150 Fish passage barriers—Cost-sharing program. (1)

The legislature finds that a state-led cost-sharing program is necessary to assist small forestland owners with removing and replacing fish passage barriers that were added to their land prior to May 14, 2003, to help achieve the goals of the forests and fish report, and to assist small forestland owners in complying with the state's fish passage requirements.

(2) The small forestland owner office must, in cooperation with the department of fish and wildlife, establish a program designed to assist small forestland owners with repairing or removing fish passage barriers and assist lead entities in acquiring the data necessary to fill any gaps in fish passage barrier information. The small forestland owner office and the department of fish and wildlife must work closely with lead entities or other local watershed groups to make maximum use of current information regarding the location and priority of current fish passage barriers. Where additional fish passage barrier inventories are necessary, funding will be sought for the collection of this information. Methods, protocols, and formulas for data gathering and prioritizing must be developed in consultation with the department of fish and wildlife. The department of fish and wildlife must assist in the training and management of fish passage barrier location data collection.

(3) The small forestland owner office must actively seek out funding for the program authorized in this section. The small forestland owner office must work with consenting landowners to identify and secure funding from local, state, federal, tribal, or nonprofit habitat restoration organizations and other private sources, including the salmon recovery funding board, the United States department of agriculture, the United States department of transportation, the Washington state department of transportation, the United States department of commerce, and the federal highway administration.

(4) (a) Except as otherwise provided in this subsection, the small forestland owner office, in implementing the program established in this section, must provide the highest proportion of public funding available for the removal or replacement of any fish passage barrier.

(b) In no case shall a small forestland owner be required to pay more than the lesser of either: (i) Twenty-five percent of any costs associated with the removal or replacement of a particular fish passage barrier; or (ii) five thousand dollars for the removal or replacement of a particular fish passage barrier. No small forestland owner shall be required to pay more than the maximum total annual costs in (c) of this subsection.

(c) The portion of the total cost of removing or replacing fish passage barriers that a small forestland owner must pay in any calendar year shall be determined based on the average annual timber volume harvested from the landowner's lands in this state during the three preceding calendar years, and whether the fish passage barrier is in eastern or western Washington.

(i) In western Washington (west of the Cascade Crest), a small forestland owner who has harvested an average annual timber volume of

less than five hundred thousand board feet shall not be required to pay more than a total of eight thousand dollars during that calendar year, a small forestland owner who has harvested an annual average timber volume between five hundred thousand and nine hundred ninety-nine thousand board feet shall not be required to pay more than a total of sixteen thousand dollars during that calendar year, a small forestland owner who has harvested an average annual timber volume between one million and one million four hundred ninety-nine thousand board feet shall not be required to pay more than a total of twenty-four thousand dollars during that calendar year, and a small forestland owner who has harvested an average annual timber volume greater than or equal to one million five hundred thousand board feet shall not be required to pay more than a total of thirty-two thousand dollars during that calendar year, regardless of the number of fish passage barriers removed or replaced on the landowner's lands during that calendar year.

(ii) In eastern Washington (east of the Cascade Crest), a small forestland owner who has harvested an average annual timber volume of less than five hundred thousand board feet shall not be required to pay more than a total of two thousand dollars during that calendar year, a small forestland owner who has harvested an annual average timber volume between five hundred thousand and nine hundred ninety-nine thousand board feet shall not be required to pay more than a total of four thousand dollars during that calendar year, a small forestland owner who has harvested an average annual timber volume between one million and one million four hundred ninety-nine thousand board feet shall not be required to pay more than a total of twelve thousand dollars during that calendar year, and a small forestland owner who has harvested an average annual timber volume greater than or equal to one million five hundred thousand board feet shall not be required to pay more than a total of sixteen thousand dollars during that calendar year, regardless of the number of fish passage barriers removed or replaced on the landowner's lands during that calendar year.

(iii) Maximum total annual costs for small forestland owners with fish passage barriers in both western and eastern Washington shall be those specified under (c)(i) and (ii) of this subsection.

(d) If an existing fish passage barrier on land owned by a small forestland owner was installed under an approved forest practices application or notification, and hydraulics approval, and that fish passage barrier becomes a high priority for fish passage based on the watershed ranking in *RCW 76.13.150, one hundred percent public funding shall be provided.

(5) If a small forestland owner is required to contribute a portion of the funding under the cost-share program established in this section, that landowner may satisfy his or her required proportion by providing either direct monetary contributions or in-kind services to the project. In-kind services may include labor, equipment, materials, and other landowner-provided services determined by the department to have an appropriate value to the removal of a particular fish passage barrier.

(6) (a) The department, using fish passage barrier assessments and ranked inventory information provided by the department of fish and wildlife and the appropriate lead entity as delineated in RCW 77.12.755, must establish a prioritized list for the funding of fish passage barrier removals on property owned by small forestland owners that ensures that funding is provided first to the known fish passage

barriers existing on forestland owned by small forestland owners that cause the greatest harm to public resources.

(b) As the department collects information about the presence of fish passage barriers from submitted checklists, it must share this information with the department of fish and wildlife and the technical advisory groups established in **RCW 77.85.070. If the addition of the information collected in the checklists or any other changes to the scientific instruments described in RCW 77.12.755 alter the analysis conducted under RCW 77.12.755, the department must alter the funding order appropriately to reflect the new information.

(7) The department may accept commitments from small forestland owners that they will participate in the program to remove fish passage barriers from their land at any time, regardless of the funding order given to the fish passage barriers on a particular landowner's property. [2003 c 311 § 7.]

Reviser's note: *(1) The reference to RCW 76.13.150 appears to be erroneous. Reference to RCW 77.12.755 was apparently intended.

** (2) RCW 77.85.070 was repealed by 2005 c 309 § 10.

Findings—Effective date—2003 c 311: See notes following RCW 76.09.020.

RCW 76.13.160 Qualifying small forestland owner—Review of certain records. When establishing a forestry riparian easement program applicant's status as a qualifying small forestland owner pursuant to RCW 76.13.120, the department shall not review the applicant's timber harvest records, or any other tax-related documents, on file with the department of revenue. The department of revenue may confirm or deny an applicant's status as a small forestland owner at the request of the department. However, for the purposes of this section, the department of revenue may not disclose more information than whether or not the applicant has reported a harvest or harvests totaling greater than or less than the qualifying thresholds established in RCW 76.13.120. Nothing in this section, or RCW 84.33.280, prohibits the department from reviewing aggregate or general information provided by the department of revenue. [2011 c 218 § 3; 2004 c 102 § 2.]

RCW 76.13.170 List of forest riparian easements to be funded.

(1) Before November 1st of each even-numbered year, the department must recommend to the governor a list of all forest riparian easement applications to be funded under RCW 76.13.120. The governor must determine the number of applications to receive funding and then submit the list in the capital budget request to the legislature. The list must include, but not be limited to, the date of the forestry riparian easement application, the type of qualifying timber, estimates of the value of the easement, aerial photograph maps of the application area, and an estimate of administrative costs for purchase of easements.

(2) The governor or the legislature may remove an application from the list if there is evidence that the applicant is a nonqualifying landowner for a forestry riparian easement. [2011 c 218 § 4.]

RCW 76.13.180 Sale of land to nonqualifying landowner—Selling landowner must reimburse the state. If, within the first ten years after receipt of compensation for a forestry riparian easement, a landowner sells the land on which an easement is located to a nonqualifying landowner, then the selling landowner must reimburse the state for the full compensation received for the forestry riparian easement. The department continues to hold, in the name of the state, the forestry riparian easement for the full term of the easement. The department may not transfer the easement to any entity other than another state agency. [2011 c 218 § 5.]

RCW 76.13.190 Integrated small forestland owner forest health program. (1) There is established an integrated small forestland owner forest health program that promotes the coordination and delivery of services with federal, state, and local agencies, including local fire districts, conservation districts, and community wildfire resilience coalitions, forest landowner associations, colleges and universities, landowner assistance organizations, consultants, forest resource-related industries, and environmental organizations to nonindustrial forests and woodland owners, hereafter referred to as small forestland owners.

(2) Under the state forester's direction, the program must:

(a) Integrate existing landowner assistance forest health programs consistent with the recommendations of "Washington's Small Forest Landowners in 2020, Status, Trends and Recommendations after 20 years of Forests & Fish, January 2021" (the report required by chapter 457, Laws of 2019), to more efficiently and effectively reach the diversity of small forestland owner audiences to take forest health action;

(b) Identify and remove barriers to technical assistance, funding, and forest health management planning;

(c) Increase education and outreach to small forestland owners;

and

(d) Distribute funding effectively to move high wildfire risk areas to lower risk.

(3) Priority areas for forest health treatment under the Washington state forest action plan, the 10-year forest health strategic plan, and the wildland fire protection 10-year strategic plan may not prohibit technical support or stewardship plan support for small forestland owner lands outside the designated emphasis areas. [2021 c 298 § 7.]

Short title—2021 c 298: See note following RCW 76.04.505.