
SENATE BILL 6028

State of Washington

60th Legislature

2007 Regular Session

By Senator Morton

Read first time 02/14/2007. Referred to Committee on Natural Resources, Ocean & Recreation.

1 AN ACT Relating to forest health; amending RCW 76.06.140,
2 76.06.020, 76.06.030, 76.06.040, 76.09.220, 76.09.060, 76.04.005, and
3 76.04.660; adding new sections to chapter 76.06 RCW; adding a new
4 section to chapter 76.09 RCW; and repealing RCW 76.06.050, 76.06.060,
5 76.06.070, 76.06.080, 76.06.090, and 76.06.110.

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

7 **Sec. 1.** RCW 76.06.140 and 2004 c 218 s 1 are each amended to read
8 as follows:

9 ~~((1))~~ The legislature finds ~~((that))~~ as follows:

10 (1) Washington faces serious forest health problems where forests
11 are overcrowded or trees are infested with or susceptible to insects,
12 diseases, wind, ice storms, and fire. The causes of and contributions
13 to these susceptible conditions include fire suppression, past timber
14 harvesting and silvicultural practices, altered species composition,
15 and the amplified risks that occur when the urban interface penetrates
16 forest land.

17 ~~((The legislature further finds that))~~ There is a private and
18 public interest in preventing and controlling uncharacteristic
19 outbreaks of native and naturalized insects and diseases, and reducing

1 the risk of uncharacteristic loss due to ice storms, wind storms, and
2 wildfire. The public interest is in protecting forest productivity on
3 forests managed for commodity production; forest ecosystem vitality;
4 reducing the cost of fire suppression and the resulting public
5 expenditures; protecting, restoring, and enhancing fish and wildlife
6 habitat, including the habitat of threatened or endangered species; and
7 protecting drinking water supplies and water quality.

8 (3) Well managed forests are the first line of defense in
9 preventing destructive fires and outbreaks of native insects and
10 diseases. Active management of forests, consistent with landowner
11 objectives and the protection of public resources, is the most
12 economical and effective way to address forest health concerns. Native
13 insects and diseases play important ecological roles when their
14 occurrence does not present a material threat to forest productivity
15 and increase the likelihood of destructive fire.

16 (4) Forest health problems may exist on forest land regardless of
17 ownership, and the state should ((~~explore all possible avenues for~~
18 working in)) pursue collaboration with the federal government to
19 address common health deficiencies.

20 ((~~(3) The legislature further finds that healthy forests benefit~~
21 not only the economic interests that rely on forest products but also
22 provide environmental benefits, such as improved water quality and
23 habitat for fish and wildlife.))

24 **Sec. 2.** RCW 76.06.020 and 2003 c 314 s 2 are each amended to read
25 as follows:

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

28 (1) "Agent" means the recognized legal representative,
29 representatives, agent, or agents for any owner.

30 (2) "Commissioner" means the commissioner of public lands.

31 (3) "Department" means the department of natural resources.

32 ~~((3) "Owner" means and includes persons or their agents.~~

33 ~~(4) "Timber land" means any land on which there is a sufficient~~
34 ~~number of trees, standing or down, to constitute, in the judgment of~~
35 ~~the department, a forest insect or forest disease breeding ground of a~~
36 ~~nature to constitute a menace, injurious and dangerous to permanent~~
37 ~~forest growth in the district under consideration.~~

1 ~~(5) "Commissioner" means the commissioner of public lands.~~
2 ~~(6))~~ (4) "Disturbance agent" means those forces that damage or
3 kill significant numbers of forest trees, such as insects, diseases,
4 other pests, wind storms, ice storms, and fires.
5 (5) "Exotic" means not native to forest lands in Washington state.
6 ~~((7) "Forest land" means any land on which there are sufficient~~
7 ~~numbers and distribution of trees and associated species to, in the~~
8 ~~judgment of the department, contribute to the spread of forest insect~~
9 ~~or forest disease outbreaks that could be injurious to forest health.~~
10 ~~(8))~~ (6) "Forest health" means, for the purposes of this chapter,
11 the condition of a forest being sound in ecological function,
12 sustainable, resilient, and resistant to insects, diseases, fire, and
13 other disturbance, and having the capacity to meet landowner
14 objectives.
15 ~~((9))~~ (7) "Forest health emergency" means the introduction of, or
16 an outbreak of, an exotic forest insect or disease that poses an
17 imminent danger of damage to the environment by threatening the
18 survivability of native tree species.
19 ~~((10))~~ (8) "Forest insect or disease" means a living stage of an
20 insect, other invertebrate animal, or disease-causing organism or agent
21 that can directly or indirectly injure or cause disease or damage in
22 trees, or parts of trees, or in processed or manufactured wood, or
23 other products of trees.
24 ~~((11))~~ (9) "Forest land" means any land on which there are
25 sufficient numbers and distribution of trees and associated species to,
26 in the judgment of the department, contribute to the spread of forest
27 insect or forest disease outbreaks that could be injurious to forest
28 health.
29 (10) "Integrated pest management" means a strategy that uses
30 various combinations of pest control methods, including biological,
31 cultural, and chemical methods, in a compatible manner to achieve
32 satisfactory control and ensure favorable economic and environmental
33 consequences.
34 ~~((12))~~ (11) "Native" means having populated Washington's forested
35 lands prior to European settlement.
36 ~~((13))~~ (12) "Outbreak" means a rapidly expanding population of
37 insects or diseases with potential to spread.
38 (13) "Owner" means and includes persons or their agents.

1 (14) "Person" means any individual, partnership, private, public,
2 or municipal corporation, county, federal, state, or local governmental
3 agency, tribes, or association of individuals of whatever nature.

4 (15) "Timber land" means any land on which there is a sufficient
5 number of trees, standing or down, to constitute, in the judgment of
6 the department, a forest insect or forest disease breeding ground of a
7 nature to constitute a menace, injurious and dangerous to permanent
8 forest growth in the district under consideration.

9 **Sec. 3.** RCW 76.06.030 and 1988 c 128 s 16 are each amended to read
10 as follows:

11 (1) This chapter shall be administered by the department.

12 (2) The department has the lead role in developing a comprehensive
13 forest health program to achieve the goals of this act. Within
14 available funding, the department shall:

15 (a) Develop, gather, and disseminate information on forest health
16 conditions, monitor forest health conditions and changes over time, and
17 coordinate and enter agreements with interested and affected parties;

18 (b) Coordinate with universities, university extension services,
19 federal and state agencies, private, public, and tribal forest
20 landowners, consulting foresters, and forest managers to monitor forest
21 fuel buildup, forest insect and disease outbreaks, and wind and ice
22 storm events; and

23 (c) Coordinate with universities, university extension services,
24 and state and federal agencies to provide education and technical
25 assistance to private, public, and tribal forest landowners on
26 silvicultural and forest management science, techniques, and technology
27 to maintain forests in conditions that are resistant to disturbance
28 agents.

29 (3) The department may implement a committee to advise on subjects
30 and procedures for monitoring forest health conditions and program
31 activities.

32 (4) The department may coordinate, support, and assist in
33 establishing cooperative forest health projects to control and contain
34 outbreaks of insects or diseases. Priority for assistance authorized
35 under this section shall be given to areas under forest health hazard
36 warnings and areas where forest health decline has resulted in
37 increased risk to public safety from destructive wildfire.

1 (5) The state and its officers and employees are not liable for
2 damages to a person or their property to the extent that liability is
3 asserted to arise from providing or failing to provide assistance under
4 this act.

5 **Sec. 4.** RCW 76.06.040 and 1951 c 233 s 4 are each amended to read
6 as follows:

7 ~~((Every owner of timber lands, or his agent, shall make every~~
8 ~~reasonable effort to control, destroy and eradicate such forest insect~~
9 ~~pests and forest tree diseases which threaten the existence of any~~
10 ~~stand of timber or provide for the same to be done on timber lands~~
11 ~~owned by him or under his control. In the event he fails, neglects, or~~
12 ~~is unable to accomplish such control, the action may be performed as~~
13 ~~provided for in this chapter.)) Landowners and managers are encouraged
14 to maintain their forest lands in a healthy condition in order to meet
15 their individual ownership objectives, protect public resources as
16 defined in chapter 76.09 RCW, and avoid contributing to forest insect
17 or disease outbreaks or increasing the risk of destructive fire.~~

18 NEW SECTION. **Sec. 5.** A new section is added to chapter 76.06 RCW
19 to read as follows:

20 Forest health issues shall be addressed by a tiered system.

21 (1) The first tier is intended to maintain forest health and
22 protect forests from disturbance agents through the voluntary efforts
23 of landowners. Tier 1 is the desired status. Consistent with
24 landowner objectives and the protection of public resources, forests
25 should be managed in ways that create, restore, or maintain healthy
26 forest ecosystems so that disturbance agents occur or exist at
27 nonepidemic levels. To the extent of available funding, information
28 and technical assistance will be made available to forest landowners so
29 they can plan for and implement necessary forest health maintenance and
30 restoration activities.

31 (2) The second tier is intended to manage the development of
32 threats to forest health, or contain or suppress existing threats to
33 forest health, due to disturbance agents. Actions by landowners to
34 address such threats to forest health are voluntary except as required
35 under chapter 76.04 RCW to reduce the danger of the spread of fire.
36 Actions suggested to reduce threats to forest health are specified in

1 forest health hazard warnings issued by the commissioner of public
2 lands under section 7 of this act. Within available funding, site-
3 specific information, technical assistance, and project coordination
4 services shall be offered as determined appropriate by the department.

5 (3) The third tier is intended to address significant threats to
6 forest health due to disturbance agents that have spread to multiple
7 forest ownerships or increased forest fuel that is likely to further
8 the spread of fire. Actions required to reduce significant threats to
9 forest health are specified in forest health hazard orders issued by
10 the commissioner of public lands under section 7(5) of this act.
11 Within available funding, site-specific information, technical
12 assistance, and project coordination services shall be offered as
13 determined appropriate by the department. Landowners who are provided
14 notice of a forest health hazard order under section 7(5) of this act
15 and fail to take the action required under such order may be subject to
16 increased liability for the spread of fire as described in RCW
17 76.04.495 and 76.04.660.

18 NEW SECTION. **Sec. 6.** A new section is added to chapter 76.06 RCW
19 to read as follows:

20 (1) The commissioner of public lands may appoint a forest health
21 technical advisory committee when the commissioner determines that
22 forest lands in any area of the state appear to be threatened by a
23 forest health condition of such a nature, extent, or timing that action
24 to reduce the threat may be necessary.

25 (a) The committee shall consist of one scientist chosen for
26 expertise in forest ecology, two scientists chosen for expertise
27 relative to the attendant risk, one specialist in wildfire protection,
28 one specialist in fuels management, one forester with extensive
29 silvicultural experience in the affected forest type, and a chairperson
30 who shall represent the commissioner. The departments of fish and
31 wildlife, ecology, and natural resources shall provide technical
32 assistance to the committee in the areas of fish and wildlife, water
33 quality, and forest practices, but shall not be members of the
34 committee. The director of forest health protection of region 6 of the
35 United States department of agriculture forest service or their named
36 designee shall be invited to be an ex officio member of the committee.
37 In the event the area affected contains substantial acreage of tribal

1 or federally owned lands, representatives of the affected agencies and
2 tribes shall be invited to participate in the proceedings of the
3 committee.

4 (b) The commissioner may disband the committee when he or she deems
5 appropriate.

6 (2) The committee shall evaluate the threat to forest health and
7 make a timely report to the commissioner on its nature, extent, and
8 location.

9 (a) In its deliberations, the committee shall consider the need for
10 action to reduce the threat and alternative methods of achieving the
11 desired results, including the environmental risks associated with the
12 alternatives.

13 (b) The committee shall also recommend potential approaches to
14 achieve the desired results for forest land ownerships of fewer than
15 ten acres and for forests owned for scientific, study, recreational, or
16 other uses not compatible with active management.

17 (c) The committee shall recommend to the commissioner whether a
18 forest health hazard warning or forest health hazard order is
19 warranted.

20 (d) When the commissioner issues a forest health hazard warning or
21 forest health hazard order, the committee shall monitor the progress
22 and results of activities to control or mitigate the hazard, and
23 periodically report its findings to the commissioner.

24 (3) The exercise by forest health technical advisory committee
25 members of their authority under this section shall not imply or create
26 any liability on their part. Advisory committee members shall be
27 compensated as provided in RCW 43.03.250 and shall receive
28 reimbursement for travel expenses as provided by RCW 43.03.050 and
29 43.03.060. Costs associated with the committee may be paid from the
30 general fund appropriation made available to the department of natural
31 resources for fire suppression.

32 NEW SECTION. **Sec. 7.** A new section is added to chapter 76.06 RCW
33 to read as follows:

34 (1) Prior to issuing a forest health hazard warning or forest
35 health hazard order, the commissioner shall consider the findings and
36 recommendations of the forest health technical advisory committee and
37 shall consult with county government officials, forest landowners and

1 forest land managers, consulting foresters, and other interested
2 parties to gather information on the threat, opportunities or
3 constraints on control mechanisms, and other information they may
4 provide. The commissioner, or a designee, shall conduct a public
5 hearing in a county within the geographical area being considered.

6 (2) The commissioner of public lands may issue a forest health
7 hazard warning when he or she deems such action is necessary to manage
8 the development of a threat to forest health or contain or suppress an
9 existing threat to forest health. A decision to issue a forest health
10 hazard warning may be based on existing forest stand conditions and:

11 (a) The presence of insects, disease, or other pests that are
12 likely to (i) spread to multiple forest ownerships and, if not
13 controlled or contained, cause extensive damage to forests; or (ii)
14 increase forest fuel that is likely to further the spread of fire;

15 (b) When, due to physical damage from wind or ice storm or other
16 cause, there is the likelihood of (i) insect populations building up to
17 damaging levels; or (ii) increasing forest fuel that is likely to
18 further the spread of fire; or

19 (c) When otherwise determined by the commissioner to be
20 appropriate.

21 (3) The commissioner of public lands may issue a forest health
22 hazard order when he or she deems such action is necessary to address
23 a significant threat to forest health. A decision to issue a forest
24 health hazard order may be based on existing forest stand conditions
25 and:

26 (a) The presence of insects, disease, or other pests that have (i)
27 spread to multiple forest ownerships and have caused and are likely to
28 continue to cause extensive damage to forests; or (ii) increased forest
29 fuel that is likely to further the spread of fire;

30 (b) When, due to extensive physical damage from wind or ice storm
31 or other cause, there is likelihood of (i) insect populations causing
32 extensive damage to forests; or (ii) increasing forest fuel that is
33 likely to further the spread of fire;

34 (c) Insufficient landowner action under a forest health hazard
35 warning; or

36 (d) When otherwise determined by the commissioner to be
37 appropriate.

1 (4) A forest health hazard warning or forest health hazard order
2 shall be issued by use of a commissioner's order. General notice of
3 the commissioner's order shall be published in a newspaper of general
4 circulation in each county within the area covered by the order and on
5 the department's web site. The order shall specify the boundaries of
6 the area affected, including federal and tribal lands, the forest stand
7 conditions that would make a parcel subject to the provisions of the
8 order, and the actions landowners or land managers should take to
9 reduce the hazard.

10 (5) Written notice of a forest health hazard warning or forest
11 health hazard order shall be provided to forest landowners of
12 specifically affected property.

13 (a) The notice shall set forth:

14 (i) The reasons for the action;

15 (ii) The boundaries of the area affected, including federal and
16 tribal lands;

17 (iii) Suggested actions that should be taken by the forest
18 landowner under a forest health hazard warning or the actions that must
19 be taken by a forest landowner under a forest health hazard order;

20 (iv) The time within which such actions should or must be taken;

21 (v) How to obtain information or technical assistance on forest
22 health conditions and treatment options;

23 (vi) The right to request mitigation under subsection (6) of this
24 section and appeal under subsection (7) of this section;

25 (vii) These requirements are advisory only for federal and tribal
26 lands.

27 (b) The notice shall be served by personal service or by mail to
28 the latest recorded real property owner, as shown by the records of the
29 county recording officer as defined in RCW 65.08.060. Service by mail
30 is effective on the date of mailing. Proof of service shall be by
31 affidavit or declaration under penalty of perjury.

32 (6) Forest landowners who have been issued a forest health hazard
33 order under subsection (5) of this section may apply to the department
34 for the remission or mitigation of such order. The application shall
35 be made to the department within fifteen days after notice of the order
36 has been served. Upon receipt of the application, the department may
37 remit or mitigate the order upon whatever terms the department in its
38 discretion deems proper, provided the department deems the remission or

1 mitigation to be in the best interests of carrying out the purposes of
2 this chapter. The department may ascertain the facts regarding all
3 such applications in such reasonable manner and under such rule as it
4 deems proper.

5 (7) Forest landowners who have been issued a forest health hazard
6 order under subsection (5) of this section may appeal the order to the
7 forest practices appeals board.

8 (a) The appeal shall be filed within thirty days after notice of
9 the order has been served, unless application for mitigation has been
10 made to the department. When such an application for mitigation is
11 made, such appeal shall be filed within thirty days after notice of the
12 disposition of the application for mitigation has been served.

13 (b) The appeal must set forth:

14 (i) The name and mailing address of the appellant;

15 (ii) The name and mailing address of the appellant's attorney, if
16 any;

17 (iii) A duplicate copy of the forest health hazard order;

18 (iv) A separate and concise statement of each error alleged to have
19 been committed;

20 (v) A concise statement of facts upon which the appellant relies to
21 sustain the statement of error; and

22 (vi) A statement of the relief requested.

23 (8) A forest health hazard order issued under subsection (5) of
24 this section is effective thirty days after date of service unless
25 application for remission or mitigation is made or an appeal is filed.
26 When an application for remission or mitigation is made, the order is
27 effective thirty days after notice setting forth the disposition of the
28 application is served unless an appeal is filed from such disposition.
29 Whenever an appeal of the order is filed, the order shall become
30 effective only upon completion of all administrative and judicial
31 review proceedings and the issuance of a final decision confirming the
32 order in whole or in part.

33 (9) Upon written request, the department may certify as adequate a
34 forest health management plan developed by a forest landowner, before
35 or in response to a forest health hazard warning or forest health
36 hazard order, if the plan is likely to achieve the desired result and
37 the terms of the plan are being diligently followed by the forest

1 landowner. The certification of adequacy shall be determined by the
2 department in its sole discretion, and be provided to the requestor in
3 writing.

4 **Sec. 8.** RCW 76.09.220 and 2003 c 393 s 20 are each amended to read
5 as follows:

6 (1) The appeals board shall operate on either a part-time or a
7 full-time basis, as determined by the governor. If it is determined
8 that the appeals board shall operate on a full-time basis, each member
9 shall receive an annual salary to be determined by the governor. If it
10 is determined that the appeals board shall operate on a part-time
11 basis, each member shall be compensated in accordance with RCW
12 43.03.250. The director of the environmental hearings office shall
13 make the determination, required under RCW 43.03.250, as to what
14 statutorily prescribed duties, in addition to attendance at a hearing
15 or meeting of the board, shall merit compensation. This compensation
16 shall not exceed ten thousand dollars in a fiscal year. Each member
17 shall receive reimbursement for travel expenses incurred in the
18 discharge of his or her duties in accordance with the provisions of RCW
19 43.03.050 and 43.03.060.

20 (2) The appeals board shall as soon as practicable after the
21 initial appointment of the members thereof, meet and elect from among
22 its members a chair, and shall at least biennially thereafter meet and
23 elect or reelect a chair.

24 (3) The principal office of the appeals board shall be at the state
25 capital, but it may sit or hold hearings at any other place in the
26 state. A majority of the appeals board shall constitute a quorum for
27 making orders or decisions, adopting rules necessary for the conduct of
28 its powers and duties, or transacting other official business, and may
29 act though one position on the board be vacant. One or more members
30 may hold hearings and take testimony to be reported for action by the
31 board when authorized by rule or order of the board. The appeals board
32 shall perform all the powers and duties granted to it in this chapter
33 or as otherwise provided by law.

34 (4) The appeals board shall make findings of fact and prepare a
35 written decision in each case decided by it, and such findings and
36 decision shall be effective upon being signed by two or more members

1 and upon being filed at the appeals board's principal office, and shall
2 be open to public inspection at all reasonable times.

3 (5) The appeals board shall either publish at its expense or make
4 arrangements with a publishing firm for the publication of those of its
5 findings and decisions which are of general public interest, in such
6 form as to assure reasonable distribution thereof.

7 (6) The appeals board shall maintain at its principal office a
8 journal which shall contain all official actions of the appeals board,
9 with the exception of findings and decisions, together with the vote of
10 each member on such actions. The journal shall be available for public
11 inspection at the principal office of the appeals board at all
12 reasonable times.

13 (7) The forest practices appeals board shall have exclusive
14 jurisdiction to hear appeals arising from an action or determination by
15 the department, and the department of fish and wildlife, and the
16 department of ecology with respect to management plans provided for
17 under RCW 76.09.350.

18 (8)(a) Any person aggrieved by the approval or disapproval of an
19 application to conduct a forest practice or the approval or disapproval
20 of any landscape plan or permit or watershed analysis may, except as
21 otherwise provided in chapter 43.21L RCW, seek review from the appeals
22 board by filing a request for the same within thirty days of the
23 approval or disapproval. Concurrently with the filing of any request
24 for review with the board as provided in this section, the requestor
25 shall file a copy of his or her request with the department and the
26 attorney general. The attorney general may intervene to protect the
27 public interest and ensure that the provisions of this chapter are
28 complied with.

29 (b) The review proceedings authorized in (a) of this subsection are
30 subject to the provisions of chapter 34.05 RCW pertaining to procedures
31 in adjudicative proceedings.

32 (9) The forest practices appeals board shall have exclusive
33 jurisdiction to hear appeals of forest health hazard orders issued by
34 the commissioner under section 7(5) of this act. Such proceedings are
35 subject to the provisions of chapter 34.05 RCW pertaining to procedures
36 in adjudicative proceedings.

1 NEW SECTION. **Sec. 9.** A new section is added to chapter 76.06 RCW
2 to read as follows:

3 Nothing in this act shall exempt actions specified under the
4 authority of this act from the application of the provisions of chapter
5 76.09 RCW and rules adopted thereunder which govern forest practices.

6 NEW SECTION. **Sec. 10.** A new section is added to chapter 76.06 RCW
7 to read as follows:

8 If any part of this chapter or requirements imposed upon landowners
9 pursuant to this chapter are found to conflict with requirements of
10 other statutes or rules, the conflicting part of this chapter or
11 requirements imposed pursuant to this chapter shall be inoperative
12 solely to the extent of the conflict. The finding or determination
13 shall not affect the operation of the remainder of this chapter or such
14 requirements.

15 **Sec. 11.** RCW 76.09.060 and 2005 c 274 s 357 are each amended to
16 read as follows:

17 (~~The following shall apply to those forest practices administered
18 and enforced by the department and for which the board shall promulgate
19 regulations as provided in this chapter:~~)

20 (1) The department shall prescribe the form and contents of the
21 notification and application. The forest practices rules shall specify
22 by whom and under what conditions the notification and application
23 shall be signed or otherwise certified as acceptable. Activities
24 conducted by the department or a contractor under the direction of the
25 department under the provisions of RCW 76.04.660, shall be exempt from
26 the landowner signature requirement on any forest practice application
27 required to be filed. The application or notification shall be
28 delivered in person to the department, sent by first class mail to the
29 department or electronically filed in a form defined by the department.
30 The form for electronic filing shall be readily convertible to a paper
31 copy, which shall be available to the public pursuant to chapter 42.56
32 RCW. The information required may include, but is not limited to:

33 (a) Name and address of the forest landowner, timber owner, and
34 operator;

35 (b) Description of the proposed forest practice or practices to be
36 conducted;

1 (c) Legal description and tax parcel identification numbers of the
2 land on which the forest practices are to be conducted;

3 (d) Planimetric and topographic maps showing location and size of
4 all lakes and streams and other public waters in and immediately
5 adjacent to the operating area and showing all existing and proposed
6 roads and major tractor roads;

7 (e) Description of the silvicultural, harvesting, or other forest
8 practice methods to be used, including the type of equipment to be used
9 and materials to be applied;

10 (f) Proposed plan for reforestation and for any revegetation
11 necessary to reduce erosion potential from roadsides and yarding roads,
12 as required by the forest practices rules;

13 (g) Soil, geological, and hydrological data with respect to forest
14 practices;

15 (h) The expected dates of commencement and completion of all forest
16 practices specified in the application;

17 (i) Provisions for continuing maintenance of roads and other
18 construction or other measures necessary to afford protection to public
19 resources;

20 (j) An affirmation that the statements contained in the
21 notification or application are true; and

22 (k) All necessary application or notification fees.

23 (2) Long range plans may be submitted to the department for review
24 and consultation.

25 (3) The application for a forest practice or the notification of a
26 Class II forest practice is subject to the three-year reforestation
27 requirement.

28 (a) If the application states that any such land will be or is
29 intended to be so converted:

30 (i) The reforestation requirements of this chapter and of the
31 forest practices rules shall not apply if the land is in fact so
32 converted unless applicable alternatives or limitations are provided in
33 forest practices rules issued under RCW 76.09.070 as now or hereafter
34 amended;

35 (ii) Completion of such forest practice operations shall be deemed
36 conversion of the lands to another use for purposes of chapters 84.33
37 and 84.34 RCW unless the conversion is to a use permitted under a
38 current use tax agreement permitted under chapter 84.34 RCW;

1 (iii) The forest practices described in the application are subject
2 to applicable county, city, town, and regional governmental authority
3 permitted under RCW 76.09.240 as now or hereafter amended as well as
4 the forest practices rules.

5 (b) Except as provided elsewhere in this section, if the
6 application or notification does not state that any land covered by the
7 application or notification will be or is intended to be so converted:

8 (i) For six years after the date of the application the county,
9 city, town, and regional governmental entities shall deny any or all
10 applications for permits or approvals, including building permits and
11 subdivision approvals, relating to nonforestry uses of land subject to
12 the application;

13 (A) The department shall submit to the local governmental entity a
14 copy of the statement of a forest landowner's intention not to convert
15 which shall represent a recognition by the landowner that the six-year
16 moratorium shall be imposed and shall preclude the landowner's ability
17 to obtain development permits while the moratorium is in place. This
18 statement shall be filed by the local governmental entity with the
19 county recording officer, who shall record the documents as provided in
20 chapter 65.04 RCW, except that lands designated as forest lands of
21 long-term commercial significance under chapter 36.70A RCW shall not be
22 recorded due to the low likelihood of conversion. Not recording the
23 statement of a forest landowner's conversion intention shall not be
24 construed to mean the moratorium is not in effect.

25 (B) The department shall collect the recording fee and reimburse
26 the local governmental entity for the cost of recording the
27 application.

28 (C) When harvesting takes place without an application, the local
29 governmental entity shall impose the six-year moratorium provided in
30 (b)(i) of this subsection from the date the unpermitted harvesting was
31 discovered by the department or the local governmental entity.

32 (D) The local governmental entity shall develop a process for
33 lifting the six-year moratorium, which shall include public
34 notification, and procedures for appeals and public hearings.

35 (E) The local governmental entity may develop an administrative
36 process for lifting or waiving the six-year moratorium for the purposes
37 of constructing a single-family residence or outbuildings, or both, on

1 a legal lot and building site. Lifting or waiving of the six-year
2 moratorium is subject to compliance with all local ordinances.

3 (F) The six-year moratorium shall not be imposed on a forest
4 practices application that contains a conversion option harvest plan
5 approved by the local governmental entity unless the forest practice
6 was not in compliance with the approved forest practice permit. Where
7 not in compliance with the conversion option harvest plan, the six-year
8 moratorium shall be imposed from the date the application was approved
9 by the department or the local governmental entity;

10 (ii) Failure to comply with the reforestation requirements
11 contained in any final order or decision shall constitute a removal of
12 designation under the provisions of RCW 84.33.140, and a change of use
13 under the provisions of RCW 84.34.080, and, if applicable, shall
14 subject such lands to the payments and/or penalties resulting from such
15 removals or changes; and

16 (iii) Conversion to a use other than commercial forest product
17 operations within six years after approval of the forest practices
18 without the consent of the county, city, or town shall constitute a
19 violation of each of the county, municipal city, town, and regional
20 authorities to which the forest practice operations would have been
21 subject if the application had so stated.

22 (c) The application or notification shall be signed by the forest
23 landowner and accompanied by a statement signed by the forest landowner
24 indicating his or her intent with respect to conversion and
25 acknowledging that he or she is familiar with the effects of this
26 subsection.

27 (4) Whenever an approved application authorizes a forest practice
28 which, because of soil condition, proximity to a water course or other
29 unusual factor, has a potential for causing material damage to a public
30 resource, as determined by the department, the applicant shall, when
31 requested on the approved application, notify the department two days
32 before the commencement of actual operations.

33 (5) Before the operator commences any forest practice in a manner
34 or to an extent significantly different from that described in a
35 previously approved application or notification, there shall be
36 submitted to the department a new application or notification form in
37 the manner set forth in this section.

1 (6) Except as provided in RCW 76.09.350(4), the notification to or
2 the approval given by the department to an application to conduct a
3 forest practice shall be effective for a term of two years from the
4 date of approval or notification and shall not be renewed unless a new
5 application is filed and approved or a new notification has been filed.
6 At the option of the applicant, an application or notification may be
7 submitted to cover a single forest practice or a number of forest
8 practices within reasonable geographic or political boundaries as
9 specified by the department. An application or notification that
10 covers more than one forest practice may have an effective term of more
11 than two years. The board shall adopt rules that establish standards
12 and procedures for approving an application or notification that has an
13 effective term of more than two years. Such rules shall include
14 extended time periods for application or notification approval or
15 disapproval. On an approved application with a term of more than two
16 years, the applicant shall inform the department before commencing
17 operations.

18 (7) Notwithstanding any other provision of this section, no prior
19 application or notification shall be required for any emergency forest
20 practice necessitated by fire, flood, windstorm, earthquake, or other
21 emergency as defined by the board, but the operator shall submit an
22 application or notification, whichever is applicable, to the department
23 within forty-eight hours after commencement of such practice or as
24 required by local regulations.

25 (8) Forest practices applications or notifications are not required
26 for forest practices conducted to control exotic forest insect or
27 disease outbreaks, when conducted by or under the direction of the
28 department of agriculture in carrying out an order of the governor or
29 director of the department of agriculture to implement pest control
30 measures as authorized under chapter 17.24 RCW, and are not required
31 when conducted by or under the direction of the department in carrying
32 out emergency measures under a forest health emergency declaration by
33 the commissioner of public lands as provided in RCW 76.06.130.

34 (a) For the purposes of this subsection, exotic forest insect or
35 disease has the same meaning as defined in RCW 76.06.020.

36 (b) In order to minimize adverse impacts to public resources,
37 control measures must be based on integrated pest management, as
38 defined in RCW 17.15.010, and must follow forest practices rules

1 relating to road construction and maintenance, timber harvest, and
2 forest chemicals, to the extent possible without compromising control
3 objectives.

4 (c) Agencies conducting or directing control efforts must provide
5 advance notice to the appropriate regulatory staff of the department of
6 the operations that would be subject to exemption from forest practices
7 application or notification requirements.

8 (d) When the appropriate regulatory staff of the department are
9 notified under (c) of this subsection, they must consult with the
10 landowner, interested agencies, and affected tribes, and assist the
11 notifying agencies in the development of integrated pest management
12 plans that comply with forest practices rules as required under (b) of
13 this subsection.

14 (e) Nothing under this subsection relieves agencies conducting or
15 directing control efforts from requirements of the federal clean water
16 act as administered by the department of ecology under RCW 90.48.260.

17 (f) Forest lands where trees have been cut as part of an exotic
18 forest insect or disease control effort under this subsection are
19 subject to reforestation requirements under RCW 76.09.070.

20 (g) The exemption from obtaining approved forest practices
21 applications or notifications does not apply to forest practices
22 conducted after the governor, the director of the department of
23 agriculture, or the commissioner of public lands have declared that an
24 emergency no longer exists because control objectives have been met,
25 that there is no longer an imminent threat, or that there is no longer
26 a good likelihood of control.

27 NEW SECTION. **Sec. 12.** A new section is added to chapter 76.09 RCW
28 to read as follows:

29 The forest practices board shall evaluate the eastside riparian
30 rules to determine if adjustments are needed to meet the riparian
31 function intended by the rules and contribute toward forest health and
32 wildfire protection goals set forth in RCW 76.06.140. The forest
33 practices board shall consider creating a class of emergency forest
34 practices or other mechanisms that will enable forest landowners to
35 prevent the spread of disturbance agents, as defined in RCW 76.06.020,
36 when rapid spread resulting in extensive loss is likely or has

1 occurred. Such emergency forest practices or other mechanisms are
2 intended to assist forest landowners in meeting their ownership
3 objectives and protect public resources.

4 **Sec. 13.** RCW 76.04.005 and 1992 c 52 s 24 are each amended to read
5 as follows:

6 As used in this chapter, the following terms have the meanings
7 indicated unless the context clearly requires otherwise.

8 (1) "Additional fire hazard" means a condition existing on any land
9 in the state:

10 (a) Covered wholly or in part by forest debris which is likely to
11 further the spread of fire and thereby endanger life or property; or

12 (b) When, due to the effects of disturbance agents, broken, down,
13 dead, or dying trees exist on forest land in sufficient quantity to be
14 likely to further the spread of fire within areas covered by a forest
15 health hazard warning or order issued by the commissioner of public
16 lands under section 7 of this act. The term "additional fire hazard"
17 does not include green trees or snags left standing in upland or
18 riparian areas under the provisions of RCW 76.04.465 or chapter 76.09
19 RCW.

20 (2) "Closed season" means the period between April 15 and October
21 15, unless the department designates different dates because of
22 prevailing fire weather conditions.

23 (3) "Department" means the department of natural resources, or its
24 authorized representatives, as defined in chapter 43.30 RCW.

25 (4) "Department protected lands" means all lands subject to the
26 forest protection assessment under RCW 76.04.610 or covered under
27 contract or agreement pursuant to RCW 76.04.135 by the department.

28 (5) "Disturbance agent" means those agents that damage or kill
29 significant numbers of forest trees, such as insects, diseases, other
30 pests, wind storms, ice storms, and fires.

31 (6) "Emergency fire costs" means those costs incurred or approved
32 by the department for emergency forest fire suppression, including the
33 employment of personnel, rental of equipment, and purchase of supplies
34 over and above costs regularly budgeted and provided for nonemergency
35 fire expenses for the biennium in which the costs occur.

36 ~~((+6))~~ (7) "Forest debris" includes forest slash, chips, and any
37 other vegetative residue resulting from activities on forest land.

1 (~~(7)~~) (8) "Forest fire service" includes all wardens, rangers,
2 and other persons employed especially for preventing or fighting forest
3 fires.

4 (~~(8)~~) (9) "Forest land" means any unimproved lands which have
5 enough trees, standing or down, or flammable material, to constitute in
6 the judgment of the department, a fire menace to life or property.
7 Sagebrush and grass areas east of the summit of the Cascade mountains
8 may be considered forest lands when such areas are adjacent to or
9 intermingled with areas supporting tree growth. Forest land, for
10 protection purposes, does not include structures.

11 (~~(9)~~) (10) "Forest landowner," "owner of forest land,"
12 "landowner," or "owner" means the owner or the person in possession of
13 any public or private forest land.

14 (~~(10)~~) (11) "Forest material" means forest slash, chips, timber,
15 standing or down, or other vegetation.

16 (~~(11)~~) (12) "Landowner operation" means every activity, and
17 supporting activities, of a forest landowner and the landowner's
18 agents, employees, or independent contractors or permittees in the
19 management and use of forest land subject to the forest protection
20 assessment under RCW 76.04.610 for the primary benefit of the owner.
21 The term includes, but is not limited to, the growing and harvesting of
22 forest products, the development of transportation systems, the
23 utilization of minerals or other natural resources, and the clearing of
24 land. The term does not include recreational and/or residential
25 activities not associated with these enumerated activities.

26 (~~(12)~~) (13) "Participating landowner" means an owner of forest
27 land whose land is subject to the forest protection assessment under
28 RCW 76.04.610.

29 (~~(13)~~) (14) "Slash" means organic forest debris such as tree
30 tops, limbs, brush, and other dead flammable material remaining on
31 forest land as a result of a landowner operation.

32 (~~(14)~~) (15) "Slash burning" means the planned and controlled
33 burning of forest debris on forest lands by broadcast burning,
34 underburning, pile burning, or other means, for the purposes of
35 silviculture, hazard abatement, or reduction and prevention or
36 elimination of a fire hazard.

37 (~~(15)~~) (16) "Suppression" means all activities involved in the

1 containment and control of forest fires, including the patrolling
2 thereof until such fires are extinguished or considered by the
3 department to pose no further threat to life or property.

4 ~~((+16+))~~ (17) "Unimproved lands" means those lands that will
5 support grass, brush and tree growth, or other flammable material when
6 such lands are not cleared or cultivated and, in the opinion of the
7 department, are a fire menace to life and property.

8 **Sec. 14.** RCW 76.04.660 and 1986 c 100 s 39 are each amended to
9 read as follows:

10 (1) The owner of land on which there is an additional fire hazard
11 ~~((and the person responsible for the existence of an additional fire
12 hazard))~~, when the hazard is the result of a landowner operation or the
13 land is within an area covered by a forest health hazard warning issued
14 under section 7 of this act, shall take reasonable measures to reduce
15 the danger of fire spreading from the area and may abate the hazard by
16 burning or other satisfactory means.

17 (2) An extreme fire hazard shall exist within areas covered by a
18 forest health hazard order issued by the commissioner of public lands
19 under section 7 of this act in which there is an additional fire hazard
20 caused by disturbance agents and the landowner has failed to take such
21 action as required by the forest health hazard order. The duties and
22 liability of such landowner under this chapter are as described in
23 subsections (5), (6), and (7) of this section.

24 (3) The department shall adopt rules defining areas of extreme fire
25 hazard that the owner and person responsible shall abate. The areas
26 shall include but are not limited to high risk areas such as where life
27 or buildings may be endangered, areas adjacent to public highways, and
28 areas of frequent public use.

29 ~~((+3+))~~ (4) The department may adopt rules, after consultation with
30 the forest fire advisory board, defining other conditions of extreme
31 fire hazard with a high potential for fire spreading to lands in other
32 ownerships. The department may prescribe additional measures that
33 shall be taken by the owner and person responsible to isolate or reduce
34 the extreme fire hazard.

35 ~~((+4+))~~ (5) The owner or person responsible for the existence of
36 the extreme fire hazard is required to abate, isolate, or reduce the
37 hazard. The duty to abate, isolate, or reduce, and liability under

1 this chapter, arise upon creation of the extreme fire hazard.
2 Liability shall include but not be limited to all fire suppression
3 expenses incurred by the department, regardless of fire cause.

4 ~~((+5))~~ (6) If the owner or person responsible for the existence of
5 the extreme fire hazard or forest debris subject to RCW 76.04.650
6 refuses, neglects, or unsuccessfully attempts to abate, isolate, or
7 reduce the same, the department may summarily abate, isolate, or reduce
8 the hazard as required by this chapter and recover twice the actual
9 cost thereof from the owner or person responsible. Landowner
10 contingency forest fire suppression account moneys may be used by the
11 department, when available, for this purpose. Moneys recovered by the
12 department pursuant to this section shall be returned to the landowner
13 contingency forest fire suppression account.

14 ~~((+6))~~ (7) Such costs shall include all salaries and expenses of
15 people and equipment incurred therein, including those of the
16 department. All such costs shall also be a lien upon the land
17 enforceable in the same manner with the same effect as a mechanic's
18 lien.

19 ~~((+7))~~ (8) The summary action may be taken only after ten days'
20 notice in writing has been given to the owner or reputed owner of the
21 land on which the extreme fire hazard or forest debris subject to RCW
22 76.04.650 exists. The notice shall include a suggested method of
23 abatement and estimated cost thereof. The notice shall be by personal
24 service or by registered or certified mail addressed to the owner or
25 reputed owner at the owner's last known place of residence.

26 (9) A landowner or manager may make a written request to the
27 department to inspect their property and provide a written notice that
28 they have complied with a forest health hazard warning or forest health
29 hazard order, or otherwise adequately abated, isolated, or reduced an
30 additional or extreme fire hazard. An additional or extreme fire
31 hazard shall be considered to continue to exist unless and until the
32 department, in its sole discretion, issues such notice.

33 NEW SECTION. Sec. 15. The following acts or parts of acts are
34 each repealed:

35 (1) RCW 76.06.050 (Infestation control district--Creation--Notice
36 to owners) and 1988 c 128 s 17, 1961 c 72 s 1, & 1951 c 233 s 5;

1 (2) RCW 76.06.060 (Department to control pests and diseases if
2 owner fails) and 1988 c 128 s 18 & 1951 c 233 s 6;
3 (3) RCW 76.06.070 (Lien for costs of control--Collection) and 1988
4 c 128 s 19 & 1951 c 233 s 7;
5 (4) RCW 76.06.080 (Owner complying with notice is exempt) and 1988
6 c 128 s 20 & 1951 c 233 s 11;
7 (5) RCW 76.06.090 (Dissolution of infestation control district) and
8 1988 c 128 s 21 & 1951 c 233 s 12; and
9 (6) RCW 76.06.110 (Deposit of moneys in general fund--Allotment as
10 unanticipated receipts) and 1979 ex.s. c 67 s 12 & 1951 c 233 s 9.

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