
SUBSTITUTE HOUSE BILL 1157

State of Washington

62nd Legislature

2012 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Orcutt, Blake, Rivers, Kretz, Taylor, Short, and Condotta)

READ FIRST TIME 01/31/11.

1 AN ACT Relating to reform of the forest practices permitting
2 system; amending RCW 76.09.040, 76.09.050, 76.09.150, 76.09.065,
3 76.09.460, 76.09.470, and 76.09.030; reenacting and amending RCW
4 76.09.060 and 76.09.020; adding new sections to chapter 77.55 RCW;
5 adding a new section to chapter 76.09 RCW; adding a new section to
6 chapter 43.30 RCW; adding a new section to chapter 43.21C RCW; creating
7 new sections; providing a contingent effective date; and providing an
8 expiration date.

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

10 NEW SECTION. **Sec. 1.** A new section is added to chapter 77.55 RCW
11 to read as follows:

12 (1) The requirements of this chapter do not apply to any forest
13 practices hydraulic project, or to any activities that are associated
14 with such a project, upon incorporation of fish protection standards
15 adopted under this chapter into the forest practices rules and approval
16 of technical guidance as required under RCW 76.09.040, at which time
17 these projects are regulated under chapter 76.09 RCW.

18 (2) The department must continue to conduct regulatory and
19 enforcement activities under this chapter for forest practices

1 hydraulic projects until the forest practices board incorporates fish
2 protection standards adopted under this chapter into the forest
3 practices rules and approves technical guidance as required under RCW
4 76.09.040.

5 (3) By July 1, 2013, the department shall adopt rules establishing
6 the form and procedures for the concurrence review process consistent
7 with section 2 of this act. The concurrence review process must allow
8 the department up to thirty days to review forest practices hydraulic
9 projects meeting the criteria under section 2(2) (a) and (b) of this
10 act for consistency with fish protection standards.

11 (4) The department shall notify the department of natural resources
12 prior to beginning a rule-making process that may affect activities
13 regulated under chapter 76.09 RCW.

14 (5) The department shall act consistent with appendix M of the
15 forest and fish report, as the term "forests and fish report" is
16 defined in RCW 76.09.020, when modifying fish protection rules that may
17 affect activities regulated under chapter 76.09 RCW.

18 (6) The department may review and provide comments on any forest
19 practices application. Prior to commenting and whenever reasonably
20 practicable, the department shall communicate with the applicant
21 regarding the substance of the project.

22 (7) The department shall participate in effectiveness monitoring
23 for forest practices hydraulic projects through its role in the review
24 processes provided under WAC 222-08-160 as it existed on the effective
25 date of this section.

26 NEW SECTION. **Sec. 2.** A new section is added to chapter 76.09 RCW
27 to read as follows:

28 (1) The department may request information and technical assistance
29 from the department of fish and wildlife regarding any forest practices
30 hydraulic project regulated under this chapter.

31 (2) A concurrence review process is established for certain forest
32 practices hydraulic projects, as follow:

33 (a) Prior to submitting an application to the department under RCW
34 76.09.050 that includes a forest practices hydraulic project involving
35 one or more water crossing structures meeting the criteria of (b) of
36 this subsection, the applicant shall submit water crossing structure

1 plans and specifications to the department of fish and wildlife for
2 concurrence review consistent with section 1(3) of this act.

3 (b) The concurrence review process applies only to:

4 (i) Culvert installation or replacement, and repair at or below the
5 bankfull width, as that term is defined in WAC 222-16-010 on the
6 effective date of this section, in fish bearing rivers or streams that
7 exceed five percent gradient;

8 (ii) Bridge construction or replacement, and repair at or below the
9 bankfull width, of fish bearing unconfined streams; or

10 (iii) Fill within the flood level - 100 year, as that term is
11 defined in WAC 222-16-010, as it existed on the effective date of this
12 section, of fish bearing unconfined streams.

13 (c) When submitting an application to the department under RCW
14 76.09.050, the applicant shall attach the following to the application:

15 (i) The concurrence review form issued by the department of fish
16 and wildlife; and

17 (ii) Plans and specifications for each water crossing structure
18 subject to concurrence review.

19 **Sec. 3.** RCW 76.09.040 and 2010 c 188 s 4 are each amended to read
20 as follows:

21 (1)(a) Where necessary to accomplish the purposes and policies
22 stated in RCW 76.09.010, and to implement the provisions of this
23 chapter, the board shall adopt forest practices rules pursuant to
24 chapter 34.05 RCW and in accordance with the procedures enumerated in
25 this section that:

26 (i) Establish minimum standards for forest practices;

27 (ii) Provide procedures for the voluntary development of resource
28 management plans which may be adopted as an alternative to the minimum
29 standards in (a)(i) of this subsection if the plan is consistent with
30 the purposes and policies stated in RCW 76.09.010 and the plan meets or
31 exceeds the objectives of the minimum standards;

32 (iii) Set forth necessary administrative provisions;

33 (iv) Establish procedures for the collection and administration of
34 forest practice fees as set forth by this chapter; and

35 (v) Allow for the development of watershed analyses.

36 (b) Forest practices rules pertaining to water quality protection
37 shall be adopted by the board after reaching agreement with the

1 director of the department of ecology or the director's designee on the
2 board with respect ~~((thereto))~~ to these rules. All other forest
3 practices rules shall be adopted by the board.

4 (c) Forest practices rules shall be administered and enforced by
5 either the department or the local governmental entity as provided in
6 this chapter. Such rules shall be adopted and administered so as to
7 give consideration to all purposes and policies set forth in RCW
8 76.09.010.

9 (2)(a) The board shall prepare proposed forest practices rules
10 consistent with this section and chapter 34.05 RCW. In addition to any
11 forest practices rules relating to water quality protection proposed by
12 the board, the department of ecology may submit to the board proposed
13 forest practices rules relating to water quality protection.

14 ~~(b)(i) ((Prior to initiating the rule-making process, the proposed
15 rules shall be submitted for review and comments to the department of
16 fish and wildlife and to the counties of the state. After receipt of
17 the proposed forest practices rules, the department of fish and
18 wildlife and the counties of the state shall have thirty days in which
19 to review and submit comments to the board, and to the department of
20 ecology with respect to its proposed rules relating to water quality
21 protection.~~

22 ~~((ii) After the expiration of the thirty day period,))~~ The board
23 ~~((and the department of ecology))~~ shall ~~((jointly))~~ hold one or more
24 hearings on the proposed rules pursuant to chapter 34.05 RCW. Any
25 county representative may propose specific forest practices rules
26 relating to problems existing within the county at the hearings.

27 ~~((+iii))~~ (ii) The board may adopt and the department of ecology
28 may approve such proposals if they find the proposals are consistent
29 with the purposes and policies of this chapter.

30 (3)(a) The board shall incorporate into the forest practices rules
31 those fish protection standards in the rules adopted under chapter
32 77.55 RCW, as the rules existed on the effective date of this section,
33 that are applicable to activities regulated under the forest practices
34 rules. If fish protection standards are incorporated by reference, the
35 board shall minimize administrative processes by utilizing the
36 exception from the administrative procedures controlling significant
37 legislative rules under RCW 34.05.328(5)(b)(iii) for the incorporation
38 of rules adopted by other state agencies.

1 (b) Thereafter, the board shall incorporate into the forest
2 practices rules any changes to those fish protection standards in the
3 rules adopted under chapter 77.55 RCW that are: (i) Adopted consistent
4 with section 1 of this act; and (ii) applicable to activities regulated
5 under the forest practices rules. If fish protection standards are
6 incorporated by reference, the board shall minimize administrative
7 processes by utilizing the exception from the administrative procedures
8 controlling significant legislative rules under RCW
9 34.05.328(5)(b)(iii) for the incorporation of rules adopted by other
10 state agencies.

11 (c) The board shall establish and maintain technical guidance in
12 the forest practices board manual, as provided under WAC 222-12-090 as
13 it existed on the effective date of this section, to assist with
14 implementation of the standards incorporated into the forest practices
15 rules under this section. The guidance must include best management
16 practices and standard techniques to ensure fish protection.

17 (d) The board must complete the requirements of (a) of this
18 subsection and establish initial technical guidance under (c) of this
19 subsection by July 1, 2013.

20 (4)(a) The board shall establish by rule a program for the
21 acquisition of riparian open space and critical habitat for threatened
22 or endangered species as designated by the board. Acquisition must be
23 a conservation easement. Lands eligible for acquisition are forest
24 lands within unconfined channel migration zones or forest lands
25 containing critical habitat for threatened or endangered species as
26 designated by the board. Once acquired, these lands may be held and
27 managed by the department, transferred to another state agency,
28 transferred to an appropriate local government agency, or transferred
29 to a private nonprofit nature conservancy corporation, as defined in
30 RCW 64.04.130, in fee or transfer of management obligation. The board
31 shall adopt rules governing the acquisition by the state or donation to
32 the state of such interest in lands including the right of refusal if
33 the lands are subject to unacceptable liabilities. The rules shall
34 include definitions of qualifying lands, priorities for acquisition,
35 and provide for the opportunity to transfer such lands with limited
36 warranties and with a description of boundaries that does not require
37 full surveys where the cost of securing the surveys would be
38 unreasonable in relation to the value of the lands conveyed. The rules

1 shall provide for the management of the lands for ecological protection
2 or fisheries enhancement. For the purposes of conservation easements
3 entered into under this section, the following apply:

4 (i) For conveyances of a conservation easement in which the
5 landowner conveys an interest in the trees only, the compensation must
6 include the timber value component, as determined by the cruised volume
7 of any timber located within the channel migration zone or critical
8 habitat for threatened or endangered species as designated by the
9 board, multiplied by the appropriate quality code stumpage value for
10 timber of the same species shown on the appropriate table used for
11 timber harvest excise tax purposes under RCW 84.33.091;

12 (ii) For conveyances of a conservation easement in which the
13 landowner conveys interests in both land and trees, the compensation
14 must include the timber value component in (a)(i) of this subsection
15 plus such portion of the land value component as determined just and
16 equitable by the department. The land value component must be the
17 acreage of qualifying channel migration zone or critical habitat for
18 threatened or endangered species as determined by the board, to be
19 conveyed, multiplied by the average per acre value of all commercial
20 forest land in western Washington or the average for eastern
21 Washington, whichever average is applicable to the qualifying lands.
22 The department must determine the western and eastern Washington
23 averages based on the land value tables established by RCW 84.33.140
24 and revised annually by the department of revenue.

25 (b) Subject to appropriations sufficient to cover the cost of such
26 an acquisition program and the related costs of administering the
27 program, the department must establish a conservation easement in land
28 that an owner tenders for purchase; provided that such lands have been
29 taxed as forest lands and are located within an unconfined channel
30 migration zone or contain critical habitat for threatened or endangered
31 species as designated by the board. Lands acquired under this section
32 shall become riparian or habitat open space. These acquisitions shall
33 not be deemed to trigger the compensating tax of chapters 84.33 and
34 84.34 RCW.

35 (c) Instead of offering to sell interests in qualifying lands,
36 owners may elect to donate the interests to the state.

37 (d) Any acquired interest in qualifying lands by the state under

1 this section shall be managed as riparian open space or critical
2 habitat.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 77.55 RCW
4 to read as follows:

5 (1) The department and the department of natural resources shall
6 enter into and maintain a memorandum of agreement between the two
7 agencies that describes how to implement integration of hydraulic
8 project approvals into forest practices applications consistent with
9 this act.

10 (2) The initial memorandum of agreement between the two departments
11 must be executed by December 31, 2012. The memorandum of agreement may
12 be amended as agreed to by the two departments.

13 **Sec. 5.** RCW 76.09.050 and 2011 c 207 s 1 are each amended to read
14 as follows:

15 (1) The board shall establish by rule which forest practices shall
16 be included within each of the following classes:

17 Class I: Minimal or specific forest practices that have no direct
18 potential for damaging a public resource and that may be conducted
19 without submitting an application or a notification except that when
20 the regulating authority is transferred to a local governmental entity,
21 those Class I forest practices that involve timber harvesting or road
22 construction within "urban growth areas," designated pursuant to
23 chapter 36.70A RCW, are processed as Class IV forest practices, but are
24 not subject to environmental review under chapter 43.21C RCW;

25 Class II: Forest practices which have a less than ordinary
26 potential for damaging a public resource that may be conducted without
27 submitting an application and may begin five calendar days, or such
28 lesser time as the department may determine, after written notification
29 by the operator, in the manner, content, and form as prescribed by the
30 department, is received by the department. However, the work may not
31 begin until all forest practice fees required under RCW 76.09.065 have
32 been received by the department. Class II shall not include forest
33 practices:

34 (a) On forest lands that are being converted to another use;

35 (b) ~~((Which require approvals under the provisions of the~~
36 ~~hydraulics act, RCW 77.55.021;~~

1 ~~(e)~~) Within "shorelines of the state" as defined in RCW 90.58.030;
2 ~~((d))~~ (c) Excluded from Class II by the board; or
3 ~~((e))~~ (d) Including timber harvesting or road construction within
4 "urban growth areas," designated pursuant to chapter 36.70A RCW, which
5 are Class IV;

6 Class III: Forest practices other than those contained in Class I,
7 II, or IV. A Class III application must be approved or disapproved by
8 the department within thirty calendar days from the date the department
9 receives the application. However, the applicant may not begin work on
10 that forest practice until all forest practice fees required under RCW
11 76.09.065 have been received by the department;

12 Class IV: Forest practices other than those contained in Class I
13 or II:

14 (a) On forest lands that are being converted to another use;

15 (b) On lands which, pursuant to RCW 76.09.070 as now or hereafter
16 amended, are not to be reforested because of the likelihood of future
17 conversion to urban development;

18 (c) That involve timber harvesting or road construction on forest
19 lands that are contained within "urban growth areas," designated
20 pursuant to chapter 36.70A RCW, except where the forest landowner
21 provides:

22 (i) A written statement of intent signed by the forest landowner
23 not to convert to a use other than commercial forest product operations
24 for ten years, accompanied by either a written forest management plan
25 acceptable to the department or documentation that the land is enrolled
26 under the provisions of chapter 84.33 or 84.34 RCW; or

27 (ii) A conversion option harvest plan approved by the local
28 governmental entity and submitted to the department as part of the
29 application; and/or

30 (d) Which have a potential for a substantial impact on the
31 environment and therefore require an evaluation by the department as to
32 whether or not a detailed statement must be prepared pursuant to the
33 state environmental policy act, chapter 43.21C RCW. Such evaluation
34 shall be made within ten days from the date the department receives the
35 application: PROVIDED, That nothing herein shall be construed to
36 prevent any local or regional governmental entity from determining that
37 a detailed statement must be prepared for an action pursuant to a Class
38 IV forest practice taken by that governmental entity concerning the

1 land on which forest practices will be conducted. A Class IV
2 application must be approved or disapproved by the department within
3 thirty calendar days from the date the department receives the
4 application, (~~unless the department determines that a detailed~~
5 ~~statement must be made, in which case the application must be approved~~
6 ~~or disapproved by the department within sixty calendar days from the~~
7 ~~date the department receives the application, unless the commissioner~~
8 ~~of public lands, through the promulgation of a formal order, determines~~
9 ~~that the process cannot be completed within such period)) except that
10 the department must: Approve or disapprove an application within sixty
11 calendar days from the date the department receives the application if
12 the department determines that a detailed statement must be made,
13 unless the commissioner of public lands, through the promulgation of a
14 formal order, determines that the process cannot be completed within
15 such a period. However, the applicant may not begin work on that
16 forest practice until all forest practice fees required under RCW
17 76.09.065 have been received by the department.~~

18 Forest practices under Classes I, II, and III are exempt from the
19 requirements for preparation of a detailed statement under the state
20 environmental policy act.

21 (2) Except for those forest practices being regulated by local
22 governmental entities as provided elsewhere in this chapter, no Class
23 II, Class III, or Class IV forest practice shall be commenced or
24 continued after January 1, 1975, unless the department has received a
25 notification with regard to a Class II forest practice or approved an
26 application with regard to a Class III or Class IV forest practice
27 containing all information required by RCW 76.09.060 as now or
28 hereafter amended. However, in the event forest practices regulations
29 necessary for the scheduled implementation of this chapter and RCW
30 90.48.420 have not been adopted in time to meet such schedules, the
31 department shall have the authority to regulate forest practices and
32 approve applications on such terms and conditions consistent with this
33 chapter and RCW 90.48.420 and the purposes and policies of RCW
34 76.09.010 until applicable forest practices regulations are in effect.

35 (3) Except for those forest practices being regulated by local
36 governmental entities as provided elsewhere in this chapter, if a
37 notification or application is delivered in person to the department by

1 the operator or the operator's agent, the department shall immediately
2 provide a dated receipt thereof. In all other cases, the department
3 shall immediately mail a dated receipt to the operator.

4 (4) Except for those forest practices being regulated by local
5 governmental entities as provided elsewhere in this chapter, forest
6 practices shall be conducted in accordance with the forest practices
7 regulations, orders and directives as authorized by this chapter or the
8 forest practices regulations, and the terms and conditions of any
9 approved applications.

10 (5) Except for those forest practices being regulated by local
11 governmental entities as provided elsewhere in this chapter, the
12 department of natural resources shall notify the applicant in writing
13 of either its approval of the application or its disapproval of the
14 application and the specific manner in which the application fails to
15 comply with the provisions of this section or with the forest practices
16 regulations. Except as provided otherwise in this section, if the
17 department fails to either approve or disapprove an application or any
18 portion thereof within the applicable time limit, the application shall
19 be deemed approved and the operation may be commenced: PROVIDED, That
20 this provision shall not apply to applications which are neither
21 approved nor disapproved pursuant to the provisions of subsection (7)
22 of this section: PROVIDED, FURTHER, That if seasonal field conditions
23 prevent the department from being able to properly evaluate the
24 application, the department may issue an approval conditional upon
25 further review within sixty days(~~(:—PROVIDED, FURTHER, That the~~
26 ~~department shall have until April 1, 1975, to approve or disapprove an~~
27 ~~application involving forest practices allowed to continue to April 1,~~
28 ~~1975, under the provisions of subsection (2) of this section)). Upon~~
29 receipt of any notification or any satisfactorily completed application
30 the department shall in any event no later than two business days after
31 such receipt transmit a copy to the departments of ecology and fish and
32 wildlife, and to the county, city, or town in whose jurisdiction the
33 forest practice is to be commenced. Any comments by such agencies
34 shall be directed to the department of natural resources.

35 (6) For those forest practices regulated by the board and the
36 department, if the county, city, or town believes that an application
37 is inconsistent with this chapter, the forest practices regulations, or

1 any local authority consistent with RCW 76.09.240 as now or hereafter
2 amended, it may so notify the department and the applicant, specifying
3 its objections.

4 (7) For those forest practices regulated by the board and the
5 department, the department shall not approve portions of applications
6 to which a county, city, or town objects if:

7 (a) The department receives written notice from the county, city,
8 or town of such objections within fourteen business days from the time
9 of transmittal of the application to the county, city, or town, or one
10 day before the department acts on the application, whichever is later;
11 and

12 (b) The objections relate to forest lands that are being converted
13 to another use.

14 The department shall either disapprove those portions of such
15 application or appeal the county, city, or town objections to the
16 appeals board. If the objections related to (b) of this subsection are
17 based on local authority consistent with RCW 76.09.240 as now or
18 hereafter amended, the department shall disapprove the application
19 until such time as the county, city, or town consents to its approval
20 or such disapproval is reversed on appeal. The applicant shall be a
21 party to all department appeals of county, city, or town objections.
22 Unless the county, city, or town either consents or has waived its
23 rights under this subsection, the department shall not approve portions
24 of an application affecting such lands until the minimum time for
25 county, city, or town objections has expired.

26 (8) For those forest practices regulated by the board and the
27 department, in addition to any rights under the above paragraph, the
28 county, city, or town may appeal any department approval of an
29 application with respect to any lands within its jurisdiction. The
30 appeals board may suspend the department's approval in whole or in part
31 pending such appeal where there exists potential for immediate and
32 material damage to a public resource.

33 (9) For those forest practices regulated by the board and the
34 department, appeals under this section shall be made to the appeals
35 board in the manner and time provided in RCW 76.09.205. In such
36 appeals there shall be no presumption of correctness of either the
37 county, city, or town or the department position.

1 (10) For those forest practices regulated by the board and the
2 department, the department shall, within four business days notify the
3 county, city, or town of all notifications, approvals, and disapprovals
4 of an application affecting lands within the county, city, or town,
5 except to the extent the county, city, or town has waived its right to
6 such notice.

7 (11) For those forest practices regulated by the board and the
8 department, a county, city, or town may waive in whole or in part its
9 rights under this section, and may withdraw or modify any such waiver,
10 at any time by written notice to the department.

11 (12) Notwithstanding subsections (2) through (5) of this section,
12 forest practices applications or notifications are not required for
13 exotic insect and disease control operations conducted in accordance
14 with RCW 76.09.060(8) where eradication can reasonably be expected.

15 **Sec. 6.** RCW 76.09.060 and 2007 c 480 s 11 and 2007 c 106 s 1 are
16 each reenacted and amended to read as follows:

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

30 (a) Name and address of the forest landowner, timber owner, and
31 operator;

32 (b) Description of the proposed forest practice or practices to be
33 conducted;

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

36 (d) Planimetric and topographic maps showing location and size of

1 all lakes and streams and other public waters in and immediately
2 adjacent to the operating area and showing all existing and proposed
3 roads and major tractor roads;

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

7 (f) For an application submitted on or after the effective date of
8 section 2 of this act that includes a forest practices hydraulic
9 project, plans and specifications for the forest practices hydraulic
10 project to ensure the proper protection of fish life;

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

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

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

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

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

23 (~~(k)~~) (l) All necessary application or notification fees.

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

26 (3) The application for a forest practice or the notification of a
27 forest practice is subject to the reforestation requirement of RCW
28 76.09.070.

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

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

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 well as the forest practices rules.

4 (b)(i) Except as provided elsewhere in this section, ~~((if the))~~
5 when the department becomes aware of a landowner ((harvests))
6 harvesting without an approved application or notification or the
7 landowner ~~((does not state))~~ has not stated that any land covered by
8 ~~((the))~~ an application or notification will be or is intended to be
9 converted~~((, and the department or the county, city, town, or regional~~
10 ~~governmental entity becomes aware of))~~, the department shall:

11 (A) Take appropriate action under the authority of RCW 76.09.080
12 through 76.09.140; and

13 (B) Provide electronic notice to the department of ecology and the
14 county, city, or town, or regional governmental entities of potential
15 conversion activities to a use other than commercial timber operations,
16 as that term is defined in RCW 76.09.020~~((, then the department shall~~
17 ~~send to the department of ecology and the appropriate county, city,~~
18 ~~town, and regional governmental entities the following documents:~~

19 ~~((i) A notice of a conversion to nonforestry use;))~~.

20 (ii) The county, city, town, or regional governmental entity shall,
21 consistent with RCW 76.09.460, issue a notice of a conversion to a
22 nonforestry use to the landowner and send copies to the department and
23 the department of ecology. Upon receipt, the department shall send to
24 the appropriate county, city, town, or regional governmental entity:

25 (A) A copy of the applicable forest practices application or
26 notification, if any; and

27 ~~((+iii))~~ (B) Copies of any applicable outstanding final orders or
28 decisions issued by the department related to the forest practices
29 application or notification.

30 (c) Failure to comply with the reforestation requirements contained
31 in any final order or decision shall constitute a removal of
32 designation under the provisions of RCW 84.33.140, and a change of use
33 under the provisions of RCW 84.34.080, and, if applicable, shall
34 subject such lands to the payments and/or penalties resulting from such
35 removals or changes.

36 (d) Conversion to a use other than commercial forest product
37 operations within six years after approval of the forest practices
38 application or notification without the consent of the county, city, or

1 town shall constitute a violation of each of the county, municipal
2 city, town, and regional authorities to which the forest practice
3 operations would have been subject if the application had stated an
4 intent to convert.

5 (e) Land that is the subject of a notice of conversion to a
6 nonforestry use produced by (~~the department and sent to the department~~
7 ~~of ecology and~~) a local (~~government under this subsection~~)
8 governmental entity is subject to the development prohibition and
9 conditions provided in RCW 76.09.460.

10 (f) Landowners who have not stated an intent to convert the land
11 covered by an application or notification and who decide to convert the
12 land to a nonforestry use within six years of receiving an approved
13 application or notification must do so in a manner consistent with RCW
14 76.09.470.

15 (g) The application or notification must include a statement
16 requiring an acknowledgment by the forest landowner of his or her
17 intent with respect to conversion and acknowledging that he or she is
18 familiar with the effects of this subsection.

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

25 (5) Before the operator commences any forest practice in a manner
26 or to an extent significantly different from that described in a
27 previously approved application or notification, there shall be
28 submitted to the department a new application or notification form in
29 the manner set forth in this section.

30 (6)(a) Except as provided in RCW 76.09.350(4), the notification to
31 or the approval given by the department to an application to conduct a
32 forest practice shall be effective for a term of (~~two~~) three years
33 from the date of approval or notification (~~and shall not be renewed~~
34 ~~unless a new application is filed and approved or a new notification~~
35 ~~has been filed~~)).

36 (b) A notification or application may be renewed for an additional
37 three-year term by the filing and approval of a notification or
38 application, as applicable, prior to the expiration of the original

1 application or notification. A renewal application or notification is
2 subject to the forest practices rules in effect at the time the renewal
3 application or notification is filed. Nothing in this section
4 precludes the applicant from applying for a new application or
5 notification after the renewal period has lapsed.

6 (c) At the option of the applicant, an application or notification
7 may be submitted to cover a single forest practice or a number of
8 forest practices within reasonable geographic or political boundaries
9 as 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)) three years.

12 (d) The board shall adopt rules that establish standards and
13 procedures for approving an application or notification that has an
14 effective term of more than ((two)) three years. Such rules shall
15 include extended time periods for application or notification approval
16 or disapproval. ((On an approved application with a term of more than
17 two years, the applicant shall inform the department before commencing
18 operations)) The department may require the applicant to provide
19 advance notice before commencing operations on an approved application
20 or notification.

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

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

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

1 (b) In order to minimize adverse impacts to public resources,
2 control measures must be based on integrated pest management, as
3 defined in RCW 17.15.010, and must follow forest practices rules
4 relating to road construction and maintenance, timber harvest, and
5 forest chemicals, to the extent possible without compromising control
6 objectives.

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

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

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

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

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

30 **Sec. 7.** RCW 76.09.150 and 2000 c 11 s 7 are each amended to read
31 as follows:

32 (1) The department shall make inspections of forest lands, before,
33 during, and after the conducting of forest practices as necessary for
34 the purpose of ensuring compliance with this chapter (~~and~~), the
35 forest practices rules, including forest practices rules incorporated
36 under RCW 76.09.040(3), and to ensure that no material damage occurs to

1 the natural resources of this state as a result of ((such)) forest
2 practices.

3 (2) Any duly authorized representative of the department shall have
4 the right to enter upon forest land at any reasonable time to enforce
5 the provisions of this chapter and the forest practices rules.

6 (3) The department or the department of ecology may apply for an
7 administrative inspection warrant to either Thurston county superior
8 court, or the superior court in the county in which the property is
9 located. An administrative inspection warrant may be issued where:

10 (a) The department has attempted an inspection of forest lands
11 under this chapter to ensure compliance with this chapter and the
12 forest practices rules or to ensure that no potential or actual
13 material damage occurs to the natural resources of this state, and
14 access to all or part of the forest lands has been actually or
15 constructively denied; or

16 (b) The department has reasonable cause to believe that a violation
17 of this chapter or of rules adopted under this chapter is occurring or
18 has occurred.

19 (4) In connection with any watershed analysis, any review of a
20 pending application by an identification team appointed by the
21 department, any compliance studies, any effectiveness monitoring, or
22 other research that has been agreed to by a landowner, the department
23 may invite representatives of other agencies, tribes, and interest
24 groups to accompany a department representative and, at the landowner's
25 election, the landowner, on any such inspections. Reasonable efforts
26 shall be made by the department to notify the landowner of the persons
27 being invited onto the property and the purposes for which they are
28 being invited.

29 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.30 RCW
30 to read as follows:

31 (1) By December 31, 2013, the department must make examples of
32 complete, high quality forest practices applications and the resulting
33 issued permits readily available to the public on its internet site, as
34 well as the internet site of the office of regulatory assistance
35 established in RCW 43.42.010. The department must maximize assistance
36 to the public and interested parties by seeking to make readily

1 available examples from forest practices that generate significant
2 permitting activity or frequent questions.

3 (2) The department must regularly review and update the examples
4 required to be made available on the internet under subsection (1) of
5 this section.

6 (3) The department must obtain the written permission of a permit
7 applicant or permittee before making publicly available that
8 applicant's or permittee's application or permit under this section and
9 must work cooperatively with the permit applicant or permittee to
10 ensure that no personal or proprietary information is made available.

11 **Sec. 9.** RCW 76.09.065 and 2000 c 11 s 5 are each amended to read
12 as follows:

13 (1) (~~Effective July 1, 1997,~~) An applicant shall pay an
14 application fee and a recording fee, if applicable, at the time an
15 application or notification is submitted to the department or to the
16 local governmental entity as provided in this chapter.

17 (2) (~~For applications and notifications submitted to the~~
18 ~~department, the application fee)) (a) If sections 1 through 3 and 6 of
19 this act are not enacted into law by June 30, 2012, then the fee for
20 applications and notifications submitted to the department shall be
21 fifty dollars for class II, III, and IV forest practices applications
22 or notifications relating to the commercial harvest of timber.
23 However, the fee shall be five hundred dollars for class IV forest
24 practices applications on lands being converted to other uses or on
25 lands which are not to be reforested because of the likelihood of
26 future conversion to urban development or on lands that are contained
27 within "urban growth areas," designated pursuant to chapter 36.70A RCW,
28 except the fee shall be fifty dollars on those lands where the forest
29 landowner provides:~~

30 (~~(a)~~) (i) A written statement of intent signed by the forest
31 landowner not to convert to a use other than commercial forest product
32 operations for ten years, accompanied by either a written forest
33 management plan acceptable to the department or documentation that the
34 land is enrolled under the provisions of chapter 84.33 RCW; or

35 (~~(b)~~) (ii) A conversion option harvest plan approved by the local
36 governmental entity and submitted to the department as part of the
37 forest practices application.

1 (b) If sections 1 through 3 and 6 of this act are enacted into law
2 by June 30, 2012, then the fee for applications and notifications
3 submitted to the department shall be one hundred fifty dollars for
4 class II applications and notifications, class III applications, and
5 class IV forest practices that have a potential for a substantial
6 impact on the environment and therefore require an evaluation by the
7 department as to whether or not a detailed statement must be prepared
8 pursuant to the state environmental policy act, chapter 43.21C RCW.
9 The fee shall be one thousand five hundred dollars for class IV forest
10 practices applications on lands being converted to other uses or on
11 lands that are not to be reforested because of the likelihood of future
12 conversion to urban development or on lands that are contained within
13 urban growth areas, designated pursuant to chapter 36.70A RCW, except
14 the fee shall be the same as for a class III forest practices
15 application where the forest landowner provides:

16 (i) A written statement of intent signed by the forest landowner
17 not to convert to a use other than commercial forest product operations
18 for ten years, accompanied by either a written forest management plan
19 acceptable to the department or documentation that the land is enrolled
20 under the provisions of chapter 84.33 RCW; or

21 (ii) A conversion option harvest plan approved by the local
22 governmental entity and submitted to the department as part of the
23 forest practices application.

24 (3) The forest practices application account is created in the
25 state treasury. Moneys in the account may be spent only after
26 appropriation. All money collected from fees under ((this)) subsection
27 (2) of this section shall be deposited in the ((state general fund))
28 forest practices application account for the purposes of implementing
29 this chapter, chapter 76.13 RCW, and Title 222 WAC.

30 ((+3)) (4) For applications submitted to ((the)) a local
31 governmental entity as provided in this chapter, the fee shall be
32 ((five hundred dollars for class IV forest practices on lands being
33 converted to other uses or lands that are contained within "urban
34 growth areas," designated pursuant to chapter 36.70A RCW, except as
35 otherwise provided in this section, unless a different fee is otherwise
36 provided)) determined by the local governmental entity.

37 ((+4) Recording fees shall be as provided in chapter 36.18 RCW.

1 ~~(5) An application fee under subsection (2) of this section shall~~
2 ~~be refunded or credited to the applicant if either the application or~~
3 ~~notification is disapproved by the department or the application or~~
4 ~~notification is withdrawn by the applicant due to restrictions imposed~~
5 ~~by the department.))~~

6 **Sec. 10.** RCW 76.09.460 and 2007 c 106 s 2 are each amended to read
7 as follows:

8 ~~((If))~~ When a county, city, town, or regional governmental entity
9 ~~((receives))~~ issues a notice of conversion to nonforestry use ~~((by the~~
10 ~~department))~~ under RCW 76.09.060, then the county, city, town, or
11 regional governmental entity must deny all applications for permits or
12 approvals, including building permits and subdivision approvals,
13 relating to nonforestry uses of the land that is the subject of the
14 notification. The prohibition ~~((created by this section))~~ must be
15 enforced by the county, city, town, or regional governmental entity:

16 (1) For a period of six years from the approval date of the
17 applicable forest practices application or notification or the date
18 that the department was made aware of the harvest activities; or

19 (2) Until the following activities are completed for the land that
20 is the subject of the notice of conversion to a nonforestry use:

21 (a) Full compliance with chapter 43.21C RCW, if applicable;

22 (b) The department has notified the county, city, town, or regional
23 governmental entity that the landowner has resolved any outstanding
24 final orders or decisions issued by the department; and

25 (c) A determination is made by the county, city, town, or regional
26 governmental entity as to whether or not the condition of the land in
27 question is in full compliance with local ordinances and regulations.
28 If full compliance is not found, a mitigation plan to address
29 violations of local ordinances or regulations must be required for the
30 parcel in question by the county, city, town, or regional governmental
31 entity. Required mitigation plans must be prepared by the landowner
32 and approved by the county, city, town, or regional governmental
33 entity. Once approved, the mitigation plan must be implemented by the
34 landowner. Mitigation measures that may be required include, but are
35 not limited to, revegetation requirements to plant and maintain trees
36 of sufficient maturity and appropriate species composition to restore

1 critical area and buffer function or to be in compliance with
2 applicable local government regulations.

3 **Sec. 11.** RCW 76.09.470 and 2007 c 106 s 3 are each amended to read
4 as follows:

5 (1) If a landowner who did not state an intent to convert his or
6 her land to a nonforestry use decides to convert his or her land to a
7 nonforestry use within six years of receiving an approved forest
8 practices application or notification under this chapter, the landowner
9 must:

10 (a) Stop all forest practices activities on the parcels subject to
11 the proposed land use conversion to a nonforestry use;

12 (b) Contact the department of ecology and the applicable county,
13 city, town, or regional governmental entity to begin the permitting
14 process; and

15 (c) Notify the department ~~((and))~~, withdraw any applicable
16 applications or notifications ~~((or request))~~, and submit a new
17 application for the conversion. The fee for a new application for
18 conversion under this subsection (1)(c) is the difference between the
19 applicable fee for the new application under RCW 76.09.065 and the fee
20 previously paid for the original application or notification, which
21 must be deposited in the forest practices application account created
22 in RCW 76.09.065.

23 (2) Upon being contacted by a landowner under this section, the
24 county, city, town, or regional governmental entity must:

25 (a) Notify the department and request from the department the
26 status of any applicable forest practices applications, notifications,
27 or final orders or decisions; and

28 (b) Complete the following activities:

29 (i) Require that the landowner be in full compliance with chapter
30 43.21C RCW, if applicable;

31 (ii) Receive notification from the department that the landowner
32 has resolved any outstanding final orders or decisions issued by the
33 department; and

34 (iii) Make a determination as to whether or not the condition of
35 the land in question is in full compliance with local ordinances and
36 regulations. If full compliance is not found, a mitigation plan to
37 address violations of local ordinances or regulations must be required

1 for the parcel in question by the county, city, town, or regional
2 governmental entity. Required mitigation plans must be prepared by the
3 landowner and approved by the county, city, town, or regional
4 governmental entity. Once approved, the mitigation plan must be
5 implemented by the landowner. Mitigation measures that may be required
6 include, but are not limited to, revegetation requirements to plant and
7 maintain trees of sufficient maturity and appropriate species
8 composition to restore critical area and buffer function or to be in
9 compliance with applicable local government regulations.

10 **Sec. 12.** RCW 76.09.030 and 2008 c 46 s 1 are each amended to read
11 as follows:

12 (1) There is hereby created the forest practices board of the state
13 of Washington as an agency of state government consisting of members as
14 follows:

15 (a) The commissioner of public lands or the commissioner's
16 designee;

17 (b) The director of the department of (~~community, trade, and~~
18 ~~economic development~~) commerce or the director's designee;

19 (c) The director of the department of agriculture or the director's
20 designee;

21 (d) The director of the department of ecology or the director's
22 designee;

23 (e) The director of the department of fish and wildlife or the
24 director's designee;

25 (f) An elected member of a county legislative authority appointed
26 by the governor(~~(:~~ ~~PROVIDED, That such~~)). However, the county
27 member's service on the board shall be conditioned on the member's
28 continued service as an elected county official;

29 (g) One member representing a timber products union, appointed by
30 the governor from a list of three names submitted by a timber labor
31 coalition affiliated with a statewide labor organization that
32 represents a majority of the timber product unions in the state; and

33 (h) Six members of the general public appointed by the governor,
34 one of whom shall be a small forest landowner who actively manages his
35 or her land, and one of whom shall be an independent logging
36 contractor.

1 (2) (~~The director of the department of fish and wildlife's service~~
2 ~~on the board may be terminated two years after August 18, 1999, if the~~
3 ~~legislature finds that after two years the department has not made~~
4 ~~substantial progress toward integrating the laws, rules, and programs~~
5 ~~governing forest practices, chapter 76.09 RCW, and the laws, rules, and~~
6 ~~programs governing hydraulic projects, chapter 77.55 RCW. Such a~~
7 ~~finding shall be based solely on whether the department of fish and~~
8 ~~wildlife makes substantial progress as defined in this subsection, and~~
9 ~~will not be based on other actions taken as a member of the board.~~
10 ~~Substantial progress shall include recommendations to the legislature~~
11 ~~for closer integration of the existing rule-making authorities of the~~
12 ~~board and the department of fish and wildlife, and closer integration~~
13 ~~of the forest practices and hydraulics permitting processes, including~~
14 ~~exploring the potential for a consolidated permitting process. These~~
15 ~~recommendations shall be designed to resolve problems currently~~
16 ~~associated with the existing dual regulatory and permitting processes.~~

17 ~~(3))~~ The members of the initial board appointed by the governor
18 shall be appointed so that the term of one member shall expire December
19 31, 1975, the term of one member shall expire December 31, 1976, the
20 term of one member shall expire December 31, 1977, the terms of two
21 members shall expire December 31, 1978, and the terms of two members
22 shall expire December 31, 1979. Thereafter, each member shall be
23 appointed for a term of four years. Vacancies on the board shall be
24 filled in the same manner as the original appointments. Each member of
25 the board shall continue in office until his or her successor is
26 appointed and qualified. The commissioner of public lands or the
27 commissioner's designee shall be the chair of the board.

28 ~~((4))~~ (3) The board shall meet at such times and places as shall
29 be designated by the chair or upon the written request of the majority
30 of the board. The principal office of the board shall be at the state
31 capital.

32 ~~((5))~~ (4) Members of the board, except public employees and
33 elected officials, shall be compensated in accordance with RCW
34 43.03.250. Each member shall be entitled to reimbursement for travel
35 expenses incurred in the performance of their duties as provided in RCW
36 43.03.050 and 43.03.060.

37 ~~((6))~~ (5) The board may employ such clerical help and staff
38 pursuant to chapter 41.06 RCW as is necessary to carry out its duties.

1 **Sec. 13.** RCW 76.09.020 and 2010 c 210 s 19 and 2010 c 188 s 6 are
2 each reenacted and amended to read as follows:

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

5 (1) "Adaptive management" means reliance on scientific methods to
6 test the results of actions taken so that the management and related
7 policy can be changed promptly and appropriately.

8 (2) "Appeals board" means the pollution control hearings board
9 created by RCW 43.21B.010.

10 (3) "Application" means the application required pursuant to RCW
11 76.09.050.

12 (4) "Aquatic resources" includes water quality, salmon, other
13 species of the vertebrate classes Cephalaspidomorphi and Osteichthyes
14 identified in the forests and fish report, the Columbia torrent
15 salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander
16 (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton*
17 *olympian*), the Dunn's salamander (*Plethodon dunnii*), the Van Dyke's
18 salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*), and
19 their respective habitats.

20 (5) "Board" means the forest practices board created in RCW
21 76.09.030.

22 (6) "Commissioner" means the commissioner of public lands.

23 (7) "Contiguous" means land adjoining or touching by common corner
24 or otherwise. Land having common ownership divided by a road or other
25 right-of-way shall be considered contiguous.

26 (8) "Conversion to a use other than commercial timber operation"
27 means a bona fide conversion to an active use which is incompatible
28 with timber growing and as may be defined by forest practices rules.

29 (9) "Date of receipt" has the same meaning as defined in RCW
30 43.21B.001.

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

32 (11) "Ecosystem services" means the benefits that the public enjoys
33 as a result of natural processes and biological diversity.

34 (12) "Ecosystem services market" means a system in which providers
35 of ecosystem services can access financing or market capital to
36 protect, restore, and maintain ecological values, including the full
37 spectrum of regulatory, quasiregulatory, and voluntary markets.

1 (13) "Fish passage barrier" means any artificial instream structure
2 that impedes the free passage of fish.

3 (14) "Forest land" means all land which is capable of supporting a
4 merchantable stand of timber and is not being actively used for a use
5 which is incompatible with timber growing. Forest land does not
6 include agricultural land that is or was enrolled in the conservation
7 reserve enhancement program by contract if such agricultural land was
8 historically used for agricultural purposes and the landowner intends
9 to continue to use the land for agricultural purposes in the future.
10 As it applies to the operation of the road maintenance and abandonment
11 plan element of the forest practices rules on small forest landowners,
12 the term "forest land" excludes:

13 (a) Residential home sites, which may include up to five acres; and

14 (b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens,
15 and the land on which appurtenances necessary to the production,
16 preparation, or sale of crops, fruit, dairy products, fish, and
17 livestock exist.

18 (15) "Forest landowner" means any person in actual control of
19 forest land, whether such control is based either on legal or equitable
20 title, or on any other interest entitling the holder to sell or
21 otherwise dispose of any or all of the timber on such land in any
22 manner. However, any lessee or other person in possession of forest
23 land without legal or equitable title to such land shall be excluded
24 from the definition of "forest landowner" unless such lessee or other
25 person has the right to sell or otherwise dispose of any or all of the
26 timber located on such forest land.

27 (16) "Forest practice" means any activity conducted on or directly
28 pertaining to forest land and relating to growing, harvesting, or
29 processing timber, including but not limited to:

30 (a) Road and trail construction, including forest practices
31 hydraulic projects that include water crossing structures, and
32 associated activities and maintenance;

33 (b) Harvesting, final and intermediate;

34 (c) Precommercial thinning;

35 (d) Reforestation;

36 (e) Fertilization;

37 (f) Prevention and suppression of diseases and insects;

38 (g) Salvage of trees; and

1 (h) Brush control.

2 "Forest practice" shall not include preparatory work such as tree
3 marking, surveying and road flagging, and removal or harvesting of
4 incidental vegetation from forest lands such as berries, ferns,
5 greenery, mistletoe, herbs, mushrooms, and other products which cannot
6 normally be expected to result in damage to forest soils, timber, or
7 public resources.

8 (17) "Forest practices rules" means any rules adopted pursuant to
9 RCW 76.09.040.

10 (18) "Forest road," as it applies to the operation of the road
11 maintenance and abandonment plan element of the forest practices rules
12 on small forest landowners, means a road or road segment that crosses
13 land that meets the definition of forest land, but excludes residential
14 access roads.

15 (19) "Forest trees" does not include hardwood trees cultivated by
16 agricultural methods in growing cycles shorter than fifteen years if
17 the trees were planted on land that was not in forest use immediately
18 before the trees were planted and before the land was prepared for
19 planting the trees. "Forest trees" includes Christmas trees, but does
20 not include Christmas trees that are cultivated by agricultural
21 methods, as that term is defined in RCW 84.33.035.

22 (20) "Forests and fish report" means the forests and fish report to
23 the board dated April 29, 1999.

24 (21) "Operator" means any person engaging in forest practices
25 except an employee with wages as his or her sole compensation.

26 (22) "Person" means any individual, partnership, private, public,
27 or municipal corporation, county, the department or other state or
28 local governmental entity, or association of individuals of whatever
29 nature.

30 (23) "Public resources" means water, fish and wildlife, and in
31 addition shall mean capital improvements of the state or its political
32 subdivisions.

33 (24) "Small forest landowner" has the same meaning as defined in
34 RCW 76.09.450.

35 (25) "Timber" means forest trees, standing or down, of a commercial
36 species, including Christmas trees. However, "timber" does not include
37 Christmas trees that are cultivated by agricultural methods, as that
38 term is defined in RCW 84.33.035.

1 (26) "Timber owner" means any person having all or any part of the
2 legal interest in timber. Where such timber is subject to a contract
3 of sale, "timber owner" shall mean the contract purchaser.

4 (27) "Unconfined channel migration zone" means the area within
5 which the active channel of an unconfined stream is prone to move and
6 where the movement would result in a potential near-term loss of
7 riparian forest adjacent to the stream. Sizeable islands with
8 productive timber may exist within the zone.

9 (28) "Unconfined stream" means generally fifth order or larger
10 waters that experience abrupt shifts in channel location, creating a
11 complex floodplain characterized by extensive gravel bars, disturbance
12 species of vegetation of variable age, numerous side channels, wall-
13 based channels, oxbow lakes, and wetland complexes. Many of these
14 streams have dikes and levees that may temporarily or permanently
15 restrict channel movement.

16 (29) "Forest practices hydraulic project" means a hydraulic
17 project, as defined under RCW 77.55.011, that requires a forest
18 practices application under this chapter.

19 (30) "Fill" means the placement of earth material or aggregate for
20 road or landing construction or other similar activities.

21 NEW SECTION. Sec. 14. A new section is added to chapter 43.21C
22 RCW to read as follows:

23 The incorporation of fish protection standards adopted under
24 chapter 77.55 RCW into the forest practices rules as required under RCW
25 76.09.040(3) is exempt from compliance with this chapter.

26 NEW SECTION. Sec. 15. (1) The departments of natural resources
27 and fish and wildlife must jointly provide a report to the appropriate
28 committees of the legislature containing findings and any
29 recommendations relating to the regulatory integration of hydraulic
30 projects and forest practices as provided in this act, including:

31 (a) Progress made in implementing the integration required under
32 this act, including rule incorporation and development of forest
33 practices board manual guidance;

34 (b) An update on and potential for permitting efficiencies in
35 addition to the integration required under this act;

1 (c) The process for and outcomes from review of forest practices
2 applications that include forest practices hydraulic projects by the
3 department of fish and wildlife; and

4 (d) Compliance monitoring for forest practices hydraulic projects
5 through the review processes provided under WAC 222-08-160 as it
6 existed on the effective date of this section.

7 (2) The departments of natural resources and fish and wildlife must
8 provide an initial report by September 1, 2014, and a second report by
9 September 1, 2016.

10 (3) This section expires December 31, 2016.

11 NEW SECTION. **Sec. 16.** Sections 2 and 5 of this act take effect on
12 the date the forest practices board incorporates fish protection
13 standards adopted under chapter 77.55 RCW into the forest practices
14 rules and approves technical guidance as required under RCW 76.09.040.
15 The department of natural resources must provide written notice of the
16 effective date of these sections to affected parties, the chief clerk
17 of the house of representatives, the secretary of the senate, the
18 office of the code reviser, and others as deemed appropriate by the
19 department of natural resources.

20 NEW SECTION. **Sec. 17.** Nothing in this act affects any rules,
21 processes, or procedures of the department of fish and wildlife and the
22 department of natural resources existing on the effective date of this
23 section that provide for regulatory integration of hydraulic projects
24 and forest practices for projects in nonfish-bearing waters.

25 NEW SECTION. **Sec. 18.** Nothing in this act authorizes the
26 department of fish and wildlife to assume authority over approval,
27 disapproval, conditioning, or enforcement of applications submitted
28 under chapter 76.09 RCW.

29 NEW SECTION. **Sec. 19.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

--- END ---