
SENATE BILL 5158

State of Washington

62nd Legislature

2011 Regular Session

By Senators Ericksen and Sheldon

Read first time 01/17/11. Referred to Committee on Natural Resources & Marine Waters.

1 AN ACT Relating to reform of the forest practices permitting
2 system; and reenacting and amending RCW 76.09.060.

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

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

6 (1) The department shall prescribe the form and contents of the
7 notification and application. The forest practices rules shall specify
8 by whom and under what conditions the notification and application
9 shall be signed or otherwise certified as acceptable. Activities
10 conducted by the department or a contractor under the direction of the
11 department under the provisions of RCW 76.04.660, shall be exempt from
12 the landowner signature requirement on any forest practice application
13 required to be filed. The application or notification shall be
14 delivered in person to the department, sent by first-class mail to the
15 department or electronically filed in a form defined by the department.
16 The form for electronic filing shall be readily convertible to a paper
17 copy, which shall be available to the public pursuant to chapter 42.56
18 RCW. The information required may include, but is not limited to:

1 (a) Name and address of the forest landowner, timber owner, and
2 operator;

3 (b) Description of the proposed forest practice or practices to be
4 conducted;

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

7 (d) Planimetric and topographic maps showing location and size of
8 all lakes and streams and other public waters in and immediately
9 adjacent to the operating area and showing all existing and proposed
10 roads and major tractor roads;

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

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

17 (g) Soil, geological, and hydrological data with respect to forest
18 practices;

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

21 (i) Provisions for continuing maintenance of roads and other
22 construction or other measures necessary to afford protection to public
23 resources;

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

26 (k) All necessary application or notification fees.

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

29 (3) The application for a forest practice or the notification of a
30 forest practice is subject to the reforestation requirement of RCW
31 76.09.070.

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

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

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

5 (iii) The forest practices described in the application are subject
6 to applicable county, city, town, and regional governmental authority
7 permitted under RCW 76.09.240 as well as the forest practices rules.

8 (b) Except as provided elsewhere in this section, if the landowner
9 harvests without an approved application or notification or the
10 landowner does not state that any land covered by the application or
11 notification will be or is intended to be converted, and the department
12 or the county, city, town, or regional governmental entity becomes
13 aware of conversion activities to a use other than commercial timber
14 operations, as that term is defined in RCW 76.09.020, then the
15 department shall send to the department of ecology and the appropriate
16 county, city, town, and regional governmental entities the following
17 documents:

18 (i) A notice of a conversion to nonforestry use;

19 (ii) A copy of the applicable forest practices application or
20 notification, if any; and

21 (iii) Copies of any applicable outstanding final orders or
22 decisions issued by the department related to the forest practices
23 application or notification.

24 (c) Failure to comply with the reforestation requirements contained
25 in any final order or decision shall constitute a removal of
26 designation under the provisions of RCW 84.33.140, and a change of use
27 under the provisions of RCW 84.34.080, and, if applicable, shall
28 subject such lands to the payments and/or penalties resulting from such
29 removals or changes.

30 (d) Conversion to a use other than commercial forest product
31 operations within six years after approval of the forest practices
32 application or notification without the consent of the county, city, or
33 town shall constitute a violation of each of the county, municipal
34 city, town, and regional authorities to which the forest practice
35 operations would have been subject if the application had stated an
36 intent to convert.

37 (e) Land that is the subject of a notice of conversion to a

1 nonforestry use produced by the department and sent to the department
2 of ecology and a local government under this subsection is subject to
3 the development prohibition and conditions provided in RCW 76.09.460.

4 (f) Landowners who have not stated an intent to convert the land
5 covered by an application or notification and who decide to convert the
6 land to a nonforestry use within six years of receiving an approved
7 application or notification must do so in a manner consistent with RCW
8 76.09.470.

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

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

19 (5) Before the operator commences any forest practice in a manner
20 or to an extent significantly different from that described in a
21 previously approved application or notification, there shall be
22 submitted to the department a new application or notification form in
23 the manner set forth in this section.

24 (6) Except as provided in RCW 76.09.350(4), the notification to or
25 the approval given by the department to an application to conduct a
26 forest practice shall be effective for a term of ~~((two))~~ five years
27 from the date of approval or notification and ~~((shall not be renewed
28 unless))~~ is eligible for renewal for a second, five-year period if the
29 harvest has not been completed after the initial five-year period.
30 Nothing in this section precludes the applicant from applying for a new
31 application ((is filed and approved)) or a new notification ((has been
32 filed)) after the renewal period has lapsed. At the option of the
33 applicant, an application or notification may be submitted to cover a
34 single forest practice or a number of forest practices within
35 reasonable geographic or political boundaries as specified by the
36 department. An application or notification that covers more than one
37 forest practice may have an effective term of more than ~~((two))~~ five
38 years. The board shall adopt rules that establish standards and

1 procedures for approving an application or notification that has an
2 effective term of more than (~~two~~) five years. Such rules shall
3 include extended time periods for application or notification approval
4 or disapproval. On an approved application with a term of more than
5 (~~two~~) five years, the applicant shall inform the department before
6 commencing operations.

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

14 (8) Forest practices applications or notifications are not required
15 for forest practices conducted to control exotic forest insect or
16 disease outbreaks, when conducted by or under the direction of the
17 department of agriculture in carrying out an order of the governor or
18 director of the department of agriculture to implement pest control
19 measures as authorized under chapter 17.24 RCW, and are not required
20 when conducted by or under the direction of the department in carrying
21 out emergency measures under a forest health emergency declaration by
22 the commissioner of public lands as provided in RCW 76.06.130.

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

25 (b) In order to minimize adverse impacts to public resources,
26 control measures must be based on integrated pest management, as
27 defined in RCW 17.15.010, and must follow forest practices rules
28 relating to road construction and maintenance, timber harvest, and
29 forest chemicals, to the extent possible without compromising control
30 objectives.

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

35 (d) When the appropriate regulatory staff of the department are
36 notified under (c) of this subsection, they must consult with the
37 landowner, interested agencies, and affected tribes, and assist the

1 notifying agencies in the development of integrated pest management
2 plans that comply with forest practices rules as required under (b) of
3 this subsection.

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

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

10 (g) The exemption from obtaining approved forest practices
11 applications or notifications does not apply to forest practices
12 conducted after the governor, the director of the department of
13 agriculture, or the commissioner of public lands have declared that an
14 emergency no longer exists because control objectives have been met,
15 that there is no longer an imminent threat, or that there is no longer
16 a good likelihood of control.

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