

2 **ESB 5011** - H COMM AMD **ADOPTED 4/12/95**
3 By Committee on Natural Resources

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "**Sec. 1.** RCW 76.48.020 and 1992 c 184 s 1 are each amended to read
8 as follows:

9 Unless otherwise required by the context, as used in this chapter:

10 (1) "Christmas trees" (~~shall~~) means any evergreen trees or the
11 top thereof, commonly known as Christmas trees, with limbs and
12 branches, with or without roots, including fir, pine, spruce, cedar,
13 and other coniferous species.

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

17 (3) "Cut or picked evergreen foliage," commonly known as brush,
18 (~~shall~~) means evergreen boughs, huckleberry, salal, fern, Oregon
19 grape, mosses, bear grass, rhododendron, and other cut or picked
20 evergreen products. "Cut or picked evergreen foliage" does not mean
21 cones or seeds.

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

24 (5) "Cedar salvage" (~~shall~~) means cedar chunks, slabs, stumps,
25 and logs having a volume greater than one cubic foot and being
26 harvested or transported from areas not associated with the concurrent
27 logging of timber stands (a) under a forest practices application
28 approved or notification received by the department of natural
29 resources, or (b) under a contract or permit issued by an agency of the
30 United States government.

31 (6) "Processed cedar products" (~~shall~~) means cedar shakes,
32 shingles, fence posts, hop poles, pickets, stakes, (~~or~~) rails(~~or~~),
33 or rounds less than one foot in length.

34 (7) "Cedar processor" (~~shall~~) means any person who purchases
35 (~~and/or~~), takes, or retains possession of cedar products or cedar
36 salvage(~~or~~) for later sale in the same or modified form(~~or~~) following

1 (~~their~~) removal and delivery from the land where harvested.

2 (8) "Cascara bark" (~~shall~~) means the bark of a Cascara tree.

3 (9) "Wild edible mushrooms" means edible mushrooms not cultivated
4 or propagated by artificial means.

5 (10) "Specialized forest products" (~~shall~~) means Christmas trees,
6 native ornamental trees and shrubs, cut or picked evergreen foliage,
7 cedar products, cedar salvage, processed cedar products, wild edible
8 mushrooms, and Cascara bark.

9 (11) "Person" (~~shall~~) includes the plural and all corporations,
10 foreign or domestic, copartnerships, firms, and associations of
11 persons.

12 (12) "Harvest" (~~shall~~) means to separate, by cutting, prying,
13 picking, peeling, breaking, pulling, splitting, or otherwise removing,
14 a specialized forest product (a) from its physical connection (~~with~~)
15 or contact with the land or vegetation upon which it (~~was or has~~
16 ~~been~~) is or was growing(~~g~~) or (b) from the position in which it
17 (~~has been~~) is lying upon (~~such~~) the land.

18 (13) "Transportation" means the physical conveyance of specialized
19 forest products outside or off of a harvest site(~~, including but not~~
20 ~~limited to conveyance by a motorized vehicle designed for use on~~
21 ~~improved roadways, or by vessel, barge, raft, or other waterborne~~
22 ~~conveyance. "Transportation" also means any conveyance of specialized~~
23 ~~forest products by helicopter~~) by any means.

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

31 (15) "Authorization" means a properly completed preprinted form
32 authorizing the transportation or possession of Christmas trees(~~g~~)
33 which (~~form~~) contains the information required by RCW 76.48.080,
34 (~~and~~) a sample of which is filed before the harvesting occurs with
35 the sheriff of the county in which the harvesting is to occur.

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

1 (17) "Specialized forest products permit" (~~shall~~) means a printed
2 document in a form specified by the department of natural resources, or
3 true copy thereof, that is signed by a landowner or his (~~duly~~) or her
4 authorized agent or representative (~~herein~~), referred to in this
5 chapter as "permitter"(~~+~~) and validated by the county sheriff(~~+~~
6 authorizing) and authorizes a designated person (~~herein~~), referred
7 to in this chapter as "permittee"(~~+~~), who (~~shall~~) has also (~~have~~)
8 signed the permit, to harvest (~~and/or~~) and transport a designated
9 specialized forest product from land owned or controlled and specified
10 by the permitter(~~+~~) and that is located in the county where (~~such~~)
11 the permit is issued.

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

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

29 (20) "Permit area" means a designated tract of land that may
30 contain single or multiple harvest sites.

31 **Sec. 2.** RCW 76.48.030 and 1979 ex.s. c 94 s 2 are each amended to
32 read as follows:

33 It (~~shall be~~) is unlawful for any person to:

34 (1) Harvest specialized forest products as described in RCW
35 76.48.020, in the quantities specified in RCW 76.48.060, without first
36 obtaining a validated specialized forest products permit;

37 (2) Engage in activities or phases of harvesting specialized forest
38 products not authorized by the permit; or

1 (3) Harvest specialized forest products in any lesser quantities
2 than those specified in RCW 76.48.060, as now or hereafter amended,
3 without first obtaining permission from the landowner or his or her
4 duly authorized agent or representative.

5 **Sec. 3.** RCW 76.48.040 and 1994 c 264 s 51 are each amended to read
6 as follows:

7 Agencies charged with the enforcement of this chapter shall
8 include, but not be limited to, the Washington state patrol, county
9 sheriffs and their deputies, county or municipal police forces,
10 ~~((authorized personnel of the United States forest service,))~~ and
11 authorized personnel of the ~~((departments of natural resources and))~~
12 department of fish and wildlife. Primary enforcement responsibility
13 lies in the county sheriffs and their deputies.

14 **Sec. 4.** RCW 76.48.050 and 1979 ex.s. c 94 s 4 are each amended to
15 read as follows:

16 Specialized forest products permits shall consist of properly
17 completed permit forms validated by the sheriff of the county in which
18 the specialized forest products are to be harvested. Each permit shall
19 be separately numbered and the permits shall be issued by consecutive
20 numbers. All specialized forest products permits shall expire at the
21 end of the calendar year in which issued, or sooner, at the discretion
22 of the permittor. A properly completed specialized forest products
23 permit form shall include:

24 (1) The date of its execution and expiration;

25 (2) The name, address, telephone number, if any, and signature of
26 the permittor;

27 (3) The name, address, telephone number, if any, and signature of
28 the permittee;

29 (4) The type of specialized forest products to be harvested or
30 transported;

31 (5) The approximate amount or volume of specialized forest products
32 to be harvested or transported;

33 (6) The legal description of the property from which the
34 specialized forest products are to be harvested or transported,
35 including the name of the county, or the state or province if outside
36 the state of Washington;

37 (7) A description by local landmarks of where the harvesting is to

1 occur, or from where the specialized forest products are to be
2 transported;

3 (8) At the discretion of the county sheriff, the person's driver's
4 license number or other valid picture identification number; and

5 (9) Any other condition or limitation which the permittor may
6 specify.

7 Except for the harvesting of Christmas trees, the permit or true
8 copy thereof must be carried by the permittee and available for
9 inspection at all times. For the harvesting of Christmas trees only a
10 single permit or true copy thereof is necessary to be available at the
11 harvest site.

12 **Sec. 5.** RCW 76.48.060 and 1992 c 184 s 2 are each amended to read
13 as follows:

14 A specialized forest products permit validated by the county
15 sheriff shall be obtained by ((any)) a person prior to harvesting from
16 any lands, including his or her own, more than five Christmas trees,
17 more than five native ornamental trees or shrubs, more than five pounds
18 of cut or picked evergreen foliage, any cedar products, cedar salvage,
19 processed cedar products, or more than five pounds of Cascara bark, or
20 more than three United States gallons of a single species of wild
21 edible mushroom and ((not)) more than an aggregate total of nine United
22 States gallons of wild edible mushrooms, plus one wild edible mushroom.
23 Specialized forest products permit forms shall be provided by the
24 department of natural resources, and shall be made available through
25 the office of the county sheriff to permittees or permittors in
26 reasonable quantities. A permit form shall be completed in triplicate
27 for each permittor's property on which a permittee harvests specialized
28 forest products. A properly completed permit form shall be mailed or
29 presented for validation to the sheriff of the county in which the
30 specialized forest products are to be harvested. Before a permit form
31 is validated by the sheriff, sufficient personal identification may be
32 required to reasonably identify the person mailing or presenting the
33 permit form and the sheriff may conduct ((such)) other investigations
34 as deemed necessary to determine the validity of the information
35 alleged on the form. When the sheriff is reasonably satisfied as to
36 the truth of ((such)) the information, the form shall be validated with
37 the sheriff's validation stamp ((provided by the department of natural
38 resources)). Upon validation, the form shall become the specialized

1 forest products permit authorizing the harvesting, possession (~~and/~~
2 ~~or~~), or transportation of specialized forest products, subject to any
3 other conditions or limitations which the permittor may specify. Two
4 copies of the permit shall be given or mailed to the permittor, or one
5 copy shall be given or mailed to the permittor and the other copy given
6 or mailed to the permittee. The original permit shall be retained in
7 the office of the county sheriff validating the permit. In the event
8 a single land ownership is situated in two or more counties, a
9 specialized forest product permit shall be completed as to the land
10 situated in each county. While engaged in harvesting of specialized
11 forest products, permittees, or their agents or employees, must have
12 readily available at each harvest site a valid permit or true copy of
13 the permit.

14 **Sec. 6.** RCW 76.48.070 and 1992 c 184 s 3 are each amended to read
15 as follows:

16 (1) Except as provided in RCW 76.48.100 and 76.48.075, it (~~shall~~
17 ~~be~~) is unlawful for any person (a) to possess, (~~and/or~~) (b) to
18 transport, or (c) to possess and transport within the state of
19 Washington, subject to any other conditions or limitations specified in
20 the specialized forest products permit by the permittor, more than five
21 Christmas trees, more than five native ornamental trees or shrubs, more
22 than five pounds of cut or picked evergreen foliage, any processed
23 cedar products, or more than five pounds of Cascara bark, or more than
24 three gallons of a single species of wild edible mushrooms and (~~not~~)
25 more than an aggregate total of nine gallons of wild edible mushrooms,
26 plus one wild edible mushroom without having in his or her possession
27 a written authorization, sales invoice, bill of lading, or specialized
28 forest products permit or a true copy thereof evidencing his or her
29 title to or authority to have possession of specialized forest products
30 being so possessed or transported.

31 (2) It (~~shall be~~) is unlawful for any person either (a) to
32 possess (~~and/or~~), (b) to transport, or (c) to possess and transport
33 within the state of Washington any cedar products or cedar salvage
34 without having in his or her possession a specialized forest products
35 permit or a true copy thereof evidencing his or her title to or
36 authority to have possession of the materials being so possessed or
37 transported.

1 **Sec. 7.** RCW 76.48.075 and 1979 ex.s. c 94 s 15 are each amended to
2 read as follows:

3 (1) It is unlawful for any person to transport or cause to be
4 transported into this state from any other state or province
5 specialized forest products, except those harvested from that person's
6 own property, without: (a) First acquiring and having readily
7 available for inspection a document indicating the true origin of the
8 specialized forest products as being outside the state, or (b) without
9 acquiring a specialized forest products permit as provided in
10 subsection (4) of this section.

11 (2) Any person transporting or causing to be transported
12 specialized forest products into this state from any other state or
13 province shall, upon request of any person to whom the specialized
14 forest products are sold or delivered or upon request of any law
15 enforcement officer, prepare and sign a statement indicating the true
16 origin of the specialized forest products, the date of delivery, and
17 the license number of the vehicle making delivery, and shall leave the
18 statement with the person making the request.

19 (3) It is unlawful for any person to possess specialized forest
20 products, transported into this state, with knowledge that the products
21 were introduced into this state in violation of this chapter.

22 (4) When any person transporting or causing to be transported into
23 this state specialized forest products elects to acquire a specialized
24 forest products permit, the specialized forest products transported
25 into this state shall be deemed to be harvested in the county of entry,
26 and the sheriff of that county may validate the permit as if the
27 products were so harvested, except that the permit shall also indicate
28 the actual harvest site outside the state.

29 (5) A cedar processor shall comply with RCW 76.48.096 by requiring
30 a person transporting specialized forest products into this state from
31 any other state or province to display a specialized forest products
32 permit, or true copy thereof, or other document indicating the true
33 origin of the specialized forest products as being outside the state.
34 The cedar processor shall make and maintain a record of the purchase,
35 taking possession, or retention of cedar products and cedar salvage in
36 compliance with RCW 76.48.094.

37 (6) If, (~~pursuant to~~) under official inquiry, investigation, or
38 other authorized proceeding regarding specialized forest products not
39 covered by a valid specialized forest products permit or other

1 acceptable document, the inspecting law enforcement officer has
2 probable cause to believe that the specialized forest products were
3 harvested in this state or wrongfully obtained in another state or
4 province, the officer may take into custody and detain, for a
5 reasonable time, the specialized forest products, all supporting
6 documents, invoices, and bills of lading, and the vehicle in which the
7 products were transported until the true origin of the specialized
8 forest products can be determined.

9 **Sec. 8.** RCW 76.48.096 and 1979 ex.s. c 94 s 10 are each amended to
10 read as follows:

11 It (~~shall be~~) is unlawful for any cedar processor to purchase,
12 take possession, or retain cedar products or cedar salvage subsequent
13 to the harvesting and prior to the retail sale of (~~such~~) the
14 products, unless the supplier thereof displays a specialized forest
15 products permit, or true copy thereof (~~, which~~) that appears to be
16 valid, or obtains the information (~~pursuant to~~) under RCW
17 76.48.075(5).

18 **Sec. 9.** RCW 76.48.098 and 1979 ex.s. c 94 s 11 are each amended to
19 read as follows:

20 Every cedar processor shall prominently display a valid
21 registration certificate, or copy thereof, obtained from the department
22 of revenue (~~pursuant to~~) under RCW 82.32.030 at each location where
23 (~~such~~) the processor receives cedar products or cedar salvage.

24 Permittees shall sell cedar products or cedar salvage only to cedar
25 processors displaying registration certificates which appear to be
26 valid.

27 **Sec. 10.** RCW 76.48.100 and 1979 ex.s. c 94 s 12 are each amended
28 to read as follows:

29 The provisions of this chapter (~~shall~~) do not apply to:

30 (1) Nursery grown products.

31 (2) Logs (except as included in the definition of "cedar salvage"
32 under RCW 76.48.020), poles, pilings, or other major forest products
33 from which substantially all of the limbs and branches have been
34 removed, and cedar salvage when harvested concurrently with timber
35 stands (a) under an approved forest practices application or
36 notification, or (b) under a contract or permit issued by an agency of

1 the United States government.

2 (3) The activities of a landowner, his or her agent, or
3 representative, or of a lessee of land in carrying on noncommercial
4 property management, maintenance, or improvements on or in connection
5 with the land of ((such)) the landowner or lessee.

6 **Sec. 11.** RCW 76.48.110 and 1979 ex.s. c 94 s 13 are each amended
7 to read as follows:

8 Whenever any law enforcement officer has probable cause to believe
9 that a person is harvesting or is in possession of or transporting
10 specialized forest products in violation of the provisions of this
11 chapter, he or she may, at the time of making an arrest, seize and take
12 possession of any ((such)) specialized forest products found. The law
13 enforcement officer shall provide reasonable protection for the
14 specialized forest products involved during the period of litigation or
15 he or she shall dispose of ((such)) the specialized forest products at
16 the discretion or order of the court before which the arrested person
17 is ordered to appear.

18 Upon any disposition of the case by the court, the court shall make
19 a reasonable effort to return the specialized forest products to
20 ((their)) its rightful owner or pay the proceeds of any sale of
21 specialized forest products less any reasonable expenses of ((such))
22 the sale to the rightful owner. If for any reason, the proceeds of
23 ((such)) the sale cannot be disposed of to the rightful owner, ((such))
24 the proceeds, less the reasonable expenses of the sale, shall be paid
25 to the treasurer of the county in which the violation occurred. The
26 county treasurer shall deposit the same in the county general fund.
27 The return of the specialized forest products or the payment of the
28 proceeds of any sale of products seized to the owner shall not preclude
29 the court from imposing any fine or penalty upon the violator for the
30 violation of the provisions of this chapter.

31 **Sec. 12.** RCW 76.48.120 and 1979 ex.s. c 94 s 14 are each amended
32 to read as follows:

33 It ((shall be)) is unlawful for any person, upon official inquiry,
34 investigation, or other authorized proceedings, to offer as genuine any
35 paper, document, or other instrument in writing purporting to be a
36 specialized forest products permit, or true copy thereof,
37 authorization, sales invoice, or bill of lading, or to make any

1 representation of authority to possess or conduct harvesting or
2 transporting of specialized forest products, knowing the same to be in
3 any manner false, fraudulent, forged, or stolen.

4 Any person who knowingly or intentionally violates this section
5 (~~shall be~~) is guilty of forgery, and shall be punished as a class C
6 felony providing for imprisonment in a state correctional institution
7 for a maximum term fixed by the court of not more than five years or by
8 a fine of not more than five thousand dollars, or by both (~~such~~)
9 imprisonment and fine.

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

14 **Sec. 13.** RCW 76.48.130 and 1977 ex.s. c 147 s 10 are each amended
15 to read as follows:

16 (~~Any~~) A person who violates (~~any~~) a provision of this chapter,
17 other than the provisions contained in RCW 76.48.120, as now or
18 hereafter amended, (~~shall be~~) is guilty of a gross misdemeanor and
19 upon conviction thereof shall be punished by a fine of not more than
20 one thousand dollars or by imprisonment in the county jail for not to
21 exceed one year or by both (~~such~~) a fine and imprisonment.

22 NEW SECTION. **Sec. 14.** A new section is added to chapter 76.48 RCW
23 to read as follows:

24 Buyers who purchase specialized forest products are required to
25 record (1) the permit number; (2) the type of forest product purchased;
26 (3) the permit holder's name; and (4) the amount of forest product
27 purchased. The buyer shall keep a record of this information for a
28 period of one year from the date of purchase and make the records
29 available for inspection by authorized enforcement officials.

30 The buyer of specialized forest products must record the seller's
31 permit number on the bill of sale. This section shall not apply to
32 transactions involving Christmas trees.

33 This section shall not apply to buyers of specialized forest
34 products at the retail sales level.

35 NEW SECTION. **Sec. 15.** A new section is added to chapter 76.48 RCW
36 to read as follows:

1 County sheriffs may contract with other entities to serve as
2 authorized agents to validate specialized forest product permits.
3 These entities include the United States forest service, the bureau of
4 land management, the department of natural resources, local police
5 departments, and other entities as decided upon by the county sheriffs'
6 departments.

7 NEW SECTION. **Sec. 16.** A new section is added to chapter 76.48 RCW
8 to read as follows:

9 Records of buyers of specialized forest products collected under
10 the requirements of section 14 of this act may be made available to
11 colleges and universities for the purpose of research.

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

14 Minority groups have long been participants in the specialized
15 forest products industry. The legislature encourages agencies serving
16 minority communities, community-based organizations, refugee centers,
17 social service agencies, agencies and organizations with expertise in
18 the specialized forest products industry, and other interested groups
19 to work cooperatively to accomplish the following purposes:

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

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

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

27 To the extent practicable within their existing resources, the
28 commission on Asian-American affairs, the commission on Hispanic
29 affairs, and the department of natural resources are encouraged to
30 coordinate this effort.

31 NEW SECTION. **Sec. 18.** RCW 76.48.092 and 1979 ex.s. c 94 s 8 &
32 1977 ex.s. c 147 s 14 are each repealed.

33 NEW SECTION. **Sec. 19.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other

1 persons or circumstances is not affected."

--- **END** ---