

2 ESB 5011 - CONF REPT
3 By Conference Committee

4 ADOPTED 4/23/95

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, rhododendron, mosses, bear grass, scotch broom (Cytisus
20 scoparius) and other cut or picked evergreen products. "Cut or picked
21 evergreen foliage" does not mean 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(~~+~~),
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

1 salvage((~~τ~~)) for later sale in the same or modified form((~~τ~~)) following
2 ((~~their~~)) removal and delivery from the land where harvested.

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

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

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

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

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

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

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

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

37 (16) "Harvest site" means each location where one or more persons
38 are engaged in harvesting specialized forest products close enough to

1 each other that communication can be conducted with an investigating
2 law enforcement officer in a normal conversational tone.

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

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

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

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

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

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

36 (1) Harvest specialized forest products as described in RCW
37 76.48.020, in the quantities specified in RCW 76.48.060, without first
38 obtaining a validated specialized forest products permit;

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

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

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

9 Agencies charged with the enforcement of this chapter shall
10 include, but not be limited to, the Washington state patrol, county
11 sheriffs and their deputies, county or municipal police forces,
12 authorized personnel of the United States forest service, and
13 authorized personnel of the departments of natural resources and fish
14 and wildlife. Primary enforcement responsibility lies in the county
15 sheriffs and their deputies. The legislature encourages county
16 sheriffs' offices to enter into interlocal agreements with these other
17 agencies in order to receive additional assistance with their
18 enforcement responsibilities.

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

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

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

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

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

34 (4) The type of specialized forest products to be harvested or
35 transported;

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

1 (6) The legal description of the property from which the
2 specialized forest products are to be harvested or transported,
3 including the name of the county, or the state or province if outside
4 the state of Washington;

5 (7) A description by local landmarks of where the harvesting is to
6 occur, or from where the specialized forest products are to be
7 transported;

8 (8) The number from some type of valid picture identification; and

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

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

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

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

1 alleged on the form. When the sheriff is reasonably satisfied as to
2 the truth of (~~such~~) the information, the form shall be validated with
3 the sheriff's validation stamp (~~provided by the department of natural~~
4 ~~resources~~). Upon validation, the form shall become the specialized
5 forest products permit authorizing the harvesting, possession (~~and/~~
6 ~~or~~), or transportation of specialized forest products, subject to any
7 other conditions or limitations which the permittor may specify. Two
8 copies of the permit shall be given or mailed to the permittor, or one
9 copy shall be given or mailed to the permittor and the other copy given
10 or mailed to the permittee. The original permit shall be retained in
11 the office of the county sheriff validating the permit. In the event
12 a single land ownership is situated in two or more counties, a
13 specialized forest product permit shall be completed as to the land
14 situated in each county. While engaged in harvesting of specialized
15 forest products, permittees, or their agents or employees, must have
16 readily available at each harvest site a valid permit or true copy of
17 the permit.

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

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

35 (2) It (~~shall be~~) is unlawful for any person either (a) to
36 possess (~~and/or~~), (b) to transport, or (c) to possess and transport
37 within the state of Washington any cedar products or cedar salvage
38 without having in his or her possession a specialized forest products

1 permit or a true copy thereof evidencing his or her title to or
2 authority to have possession of the materials being so possessed or
3 transported.

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

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

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

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

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

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

1 taking possession, or retention of cedar products and cedar salvage in
2 compliance with RCW 76.48.094.

3 (6) If, (~~pursuant to~~) under official inquiry, investigation, or
4 other authorized proceeding regarding specialized forest products not
5 covered by a valid specialized forest products permit or other
6 acceptable document, the inspecting law enforcement officer has
7 probable cause to believe that the specialized forest products were
8 harvested in this state or wrongfully obtained in another state or
9 province, the officer may take into custody and detain, for a
10 reasonable time, the specialized forest products, all supporting
11 documents, invoices, and bills of lading, and the vehicle in which the
12 products were transported until the true origin of the specialized
13 forest products can be determined.

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

16 It (~~shall be~~) is unlawful for any cedar processor to purchase,
17 take possession, or retain cedar products or cedar salvage subsequent
18 to the harvesting and prior to the retail sale of (~~such~~) the
19 products, unless the supplier thereof displays a specialized forest
20 products permit, or true copy thereof (~~which~~) that appears to be
21 valid, or obtains the information (~~pursuant to~~) under RCW
22 76.48.075(5).

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

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

29 Permittees shall sell cedar products or cedar salvage only to cedar
30 processors displaying registration certificates which appear to be
31 valid.

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

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

35 (1) Nursery grown products.

1 (2) Logs (except as included in the definition of "cedar salvage"
2 under RCW 76.48.020), poles, pilings, or other major forest products
3 from which substantially all of the limbs and branches have been
4 removed, and cedar salvage when harvested concurrently with timber
5 stands (a) under an approved forest practices application or
6 notification, or (b) under a contract or permit issued by an agency of
7 the United States government.

8 (3) The activities of a landowner, his or her agent, or
9 representative, or of a lessee of land in carrying on noncommercial
10 property management, maintenance, or improvements on or in connection
11 with the land of (~~such~~) the landowner or lessee.

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

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

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

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

3 It (~~shall be~~) is unlawful for any person, upon official inquiry,
4 investigation, or other authorized proceedings, to offer as genuine any
5 paper, document, or other instrument in writing purporting to be a
6 specialized forest products permit, or true copy thereof,
7 authorization, sales invoice, or bill of lading, or to make any
8 representation of authority to possess or conduct harvesting or
9 transporting of specialized forest products, knowing the same to be in
10 any manner false, fraudulent, forged, or stolen.

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

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

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

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

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

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

1 The buyer of specialized forest products must record the license
2 plate number of the vehicle transporting the forest products on the
3 bill of sale, as well as the seller's permit number on the bill of
4 sale. This section shall not apply to transactions involving Christmas
5 trees.

6 The section shall not apply to buyers of specialized forest
7 products at the retail sales level.

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

10 County sheriffs may contract with other entities to serve as
11 authorized agents to validate specialized forest product permits.
12 These entities include the United States forest service, the bureau of
13 land management, the department of natural resources, local police
14 departments, and other entities as decided upon by the county sheriffs'
15 departments. An entity that contracts with a county sheriff to serve
16 as an authorized agent to validate specialized forest product permits
17 may make reasonable efforts to verify the information provided on the
18 permit form such as the section, township, and range of the area where
19 harvesting is to occur.

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

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

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

27 Minority groups have long been participants in the specialized
28 forest products industry. The legislature encourages agencies serving
29 minority communities, community-based organizations, refugee centers,
30 social service agencies, agencies and organizations with expertise in
31 the specialized forest products industry, and other interested groups
32 to work cooperatively to accomplish the following purposes:

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

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

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

4 To the extent practicable within their existing resources, the
5 commission on Asian-American affairs, the commission on Hispanic
6 affairs, and the department of natural resources are encouraged to
7 coordinate this effort.

8 NEW SECTION. **Sec. 18.** RCW 76.48.092 and 1979 ex.s. c 94 s 8 &
9 1977 ex.s. c 147 s 14 are each repealed.

10 NEW SECTION. **Sec. 19.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected."

14 **ESB 5011** - CONF REPT
15 By Conference Committee

16 ADOPTED 4/23/95

17 On page 1, line 1 of the title, after "products;" strike the
18 remainder of the title and insert "amending RCW 76.48.020, 76.48.030,
19 76.48.040, 76.48.050, 76.48.060, 76.48.070, 76.48.075, 76.48.096,
20 76.48.098, 76.48.100, 76.48.110, 76.48.120, and 76.48.130; adding new
21 sections to chapter 76.48 RCW; and repealing RCW 76.48.092."

--- END ---