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SENATE BILL 6679

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State of Washington

55th Legislature

1998 Regular Session

By Senators Morton, Sellar, Hochstatter and Anderson

Read first time 01/27/98. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to verification of information provided on  
2 notifications and applications for forest practices; and reenacting and  
3 amending RCW 76.09.060.

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

5 **Sec. 1.** RCW 76.09.060 and 1997 c 290 s 3 and 1997 c 173 s 3 are  
6 each reenacted and amended to read as follows:

7 The following shall apply to those forest practices administered  
8 and enforced by the department and for which the board shall promulgate  
9 regulations as provided in this chapter:

10 (1) The department shall prescribe the form and contents of the  
11 notification and application. The forest practices rules shall specify  
12 by whom and under what conditions the notification and application  
13 shall be signed or otherwise certified as acceptable. The application  
14 or notification shall be delivered in person to the department, sent by  
15 first class mail to the department or electronically filed in a form  
16 defined by the department. The form for electronic filing shall be  
17 readily convertible to a paper copy, which shall be available to the  
18 public pursuant to chapter 42.17 RCW. The information required may  
19 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. The department  
7 shall verify the accuracy of the legal description and tax parcel  
8 identification numbers, and shall be liable for any damages that occur  
9 as a result of a failure to so verify;

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

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

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

20 (g) Soil, geological, and hydrological data with respect to forest  
21 practices;

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

24 (i) Provisions for continuing maintenance of roads and other  
25 construction or other measures necessary to afford protection to public  
26 resources;

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

29 (k) All necessary application or notification fees.

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

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

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

37 (i) The reforestation requirements of this chapter and of the  
38 forest practices rules shall not apply if the land is in fact so  
39 converted unless applicable alternatives or limitations are provided in

1 forest practices rules issued under RCW 76.09.070 as now or hereafter  
2 amended;

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

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

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

14 (i) For six years after the date of the application the county,  
15 city, town, and regional governmental entities shall deny any or all  
16 applications for permits or approvals, including building permits and  
17 subdivision approvals, relating to nonforestry uses of land subject to  
18 the application;

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

31 (B) The department shall collect the recording fee and reimburse  
32 the local governmental entity for the cost of recording the  
33 application.

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

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

4 (E) The local governmental entity may develop an administrative  
5 process for lifting or waiving the six-year moratorium for the purposes  
6 of constructing a single-family residence or outbuildings, or both, on  
7 a legal lot and building site. Lifting or waiving of the six-year  
8 moratorium is subject to compliance with all local ordinances.

9 (F) The six-year moratorium shall not be imposed on a forest  
10 practices application that contains a conversion option harvest plan  
11 approved by the local governmental entity unless the forest practice  
12 was not in compliance with the approved forest practice permit. Where  
13 not in compliance with the conversion option harvest plan, the six-year  
14 moratorium shall be imposed from the date the application was approved  
15 by the department or the local governmental entity;

16 (ii) Failure to comply with the reforestation requirements  
17 contained in any final order or decision shall constitute a removal of  
18 designation under the provisions of RCW 84.33.140, and a change of use  
19 under the provisions of RCW 84.34.080, and, if applicable, shall  
20 subject such lands to the payments and/or penalties resulting from such  
21 removals or changes; and

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

28 (c) The application or notification shall be signed by the forest  
29 landowner and accompanied by a statement signed by the forest landowner  
30 indicating his or her intent with respect to conversion and  
31 acknowledging that he or she is familiar with the effects of this  
32 subsection.

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

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

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

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

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