

FINAL BILL REPORT

2SHB 1095

C 311 L 03

Synopsis as Enacted

Brief Description: Limiting the impact on small forest landowners caused by forest road maintenance and abandonment requirements.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Rockefeller, Sump, Linville, Orcutt, Schoesler, Pearson, Holmquist, Haigh and Kristiansen; by request of Commissioner of Public Lands).

House Committee on Agriculture & Natural Resources

House Committee on Appropriations

Senate Committee on Natural Resources, Energy & Water

Senate Committee on Ways & Means

Background:

History of the Forests and Fish Law

The Forest and Fish Report was presented to the Forest Practices Board (Board) and the Governor's Salmon Recovery Office on February 22, 1999. The report represented the recommendations of the authors for the development and implementation of rules, statutes, and programs designed to improve and protect riparian habitat on non-federal forest lands in Washington.

In 1999 the Legislature recognized the Forest and Fish Report by passing the Forests and Fish Law. The law strongly encouraged the Board to adopt emergency rules implementing the recommendations of the Forest and Fish Report. These recommendations included the requirement that all forest landowners be required to file a road maintenance and abandonment plan (RMAP).

RMAP Requirements

All forest landowners must submit a RMAP to the Department of Natural Resources (DNR) by December 31, 2005, or concurrent with an application for a forest practice, whichever is sooner. The RMAP must contain ownership maps, a schedule to complete necessary road work within 15 years, standard road maintenance practices, a storm maintenance strategy, and an assessment of risks to public resources.

On each anniversary date of a RMAPs submission, the owner must file with the DNR a detailed description of the work that was accomplished the previous year and the work

that is scheduled for the upcoming year. If the landowner decides not to maintain a road, he or she must indicate in the RMAP a schedule for abandoning the road.

If a landowner fails to submit a RMAP, or to comply with the work schedule outlined in the RMAP, the DNR may deny future forest practice applications made by that landowner. In addition, the RMAP requirement is considered a continuing forest land obligation. All such obligations must be disclosed by the seller of forest land to the buyer prior to sale. If the seller fails to disclose these obligations, the seller is responsible for paying the costs incurred by the buyer for compliance with the obligations.

Summary:

Definitions

The term "small forest landowner" is defined consistently with other locations in the Revised Code of Washington. The definition of small forest landowner is generally a person or entity that harvests an average of two million board feet or less each year.

The term "forest road" is generally defined to mean any road or road segment that crosses over forest land. "Forest land" is defined to exclude residential home sites and agricultural land. "Fish passage barrier" is defined to mean artificial instream structures.

RMAP Reporting Requirements

The Board is instructed to adopt emergency rules by October 31, 2003, for RMAPs that are different from the recommendations of the Forest and Fish Report. Forest landowners that own a total of 80 acres or less of forest land are not required to submit an RMAP for blocks of forest land that are 20 contiguous acres or less in size.

Landowners that do not meet the 20-acre exemption, but still satisfy the definition of a small forest landowner, are only required to file a checklist RMAP and are exempted from the annual reporting requirement. Unlike standard RMAPs, checklist RMAPs do not need to be filed until the landowner files a forest practice application for a final or intermediate harvest, or for a tree salvage. The checklist RMAP must be limited in scope to the current law, and may only apply to forest roads affected by a forest practice application.

Cost-Share Funding

The Small Forest Landowners Office (SFLO) must seek out funding to implement a cost-sharing program to assist small forest landowners with the costs of removing and replacing culverts and other man-made fish blockages.

The SFLO is directed to seek the highest possible proportion of public funding available; however, a small forest landowner is only required to contribute 25 percent of the cost of any fish barrier or culvert removal. In no instance will a small forest landowner be required to contribute more than \$5,000 towards a particular fish barrier. If a small forest landowner is required to remove a culvert that was lawfully installed, the cost-share program will pay for 100 percent of that culvert's removal costs. In addition, the annual amount that a small forest landowner can be required to pay for fish barrier removal is calculated from the amount of timber he or she harvested in the three years leading to the fish barrier removal.

If a small forest landowner is required to pay for a portion of a road maintenance project, that landowner can satisfy his or her share by providing in-kind services. In-kind services can include labor, equipment, and materials.

Limited funds for the cost-share program are directed to be applied in a worst-first manner within a watershed. The DNR is responsible for establishing an order for providing funds that is aimed at first addressing the priority blockages. In establishing this order, the DNR must coordinate with the Department of Fish and Wildlife and salmon recovery lead entities to establish an annually-updated ranked inventory of fish barriers on land owned by small forest landowners. This process first requires that all known data about the locations and impacts of fish blockages be gathered and synthesized. The funding order may be altered to reflect the addition of new information.

Forest Practices Application Approvals

Small forest landowners will not have a forest practices application denied solely on the grounds that fish blockages have not been removed if the landowner agrees to remove the fish blockages when cost-share funding is available. The participating landowner will be able to conduct all otherwise permissible forest practices until the cost-share program provides funding for the removal of blockages on his or her land.

Continuing Obligations

The checklist RMAP requirement is exempted from the continuing forest land obligations provision of the Forests and Fish Law. The seller of forest land is not required to notify the buyer in writing of the existence of the checklist RMAP requirement. The checklist RMAP requirement is also removed from the express requirement that the seller pay for any continuing obligations that were not disclosed to the buyer.

Votes on Final Passage:

House	78	20
Senate	49	0 (Senate amended)

House 96 0 (House concurred)

Effective: May 14, 2003