

# SENATE BILL REPORT

## 2SHB 1095

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As Reported By Senate Committee On:  
Natural Resources, Energy & Water, April 4, 2003  
Ways & Means, April 7, 2003

**Title:** An act relating to assisting small forest landowners with the forest road maintenance and abandonment plan elements of the forest practices rules.

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

**Sponsors:** 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).

**Brief History:**

**Committee Activity:** Natural Resources, Energy & Water: 4/2/03, 4/4/03 [DPA-WM].  
Ways & Means: 4/7/03 [DPA].

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### SENATE COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.  
Signed by Senators Morton, Chair; Hewitt, Vice Chair; Doumit, Hale, Hargrove, Honeyford and Oke.

**Staff:** Vic Moon (786-7469)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass as amended.  
Signed by Senators Rossi, Chair; Hewitt, Vice Chair; Zarelli, Vice Chair; Doumit, Fairley, Fraser, Hale, Honeyford, Johnson, Parlette, Roach, Sheahan and B. Sheldon.

**Staff:** Richard Ramsey (786-7412)

**Background:** The Forest and Fish Report was presented to the Forest Practices 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).

All forest landowners must submit an 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 an RMAPs submission, the owner must file with 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 an RMAP, or to comply with the work schedule outlined in the RMAP, 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. All written notifications are required to be sent to DNR.

**Summary of Amended Bill: 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 in each three-year period.

The term "forest road" is defined to mean any road or road segment that does cross over forest land but does not include residential access roads. "Forest land" is defined to exclude residential home sites and up to five surrounding acres and land that is primarily used for agriculture.

**RMAP Reporting Requirements.** The board is instructed to adopt emergency rules for RMAPs that are different from the recommendations of the Forest and Fish Report by October 31, 2003. 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 exempt from the annual reporting requirement. The checklist is developed by the Small Forest Landowner Office and the advisory committee that assists it. Unlike standard RMAPs, checklist RMAPs do not need to be filed until the landowner files a forest practice application.

Reports from the Department of Natural Resources on the program are required in 2008 and 2013.

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 to comply with the state's fish passage requirements.

The SFLO must seek the highest possible proportion of public funding available; however, a small forest landowner must only contribute 25 percent of the cost of any fish barrier removal. In no instance will a small forest landowner be required to contribute more than \$5,000 towards a particular fish barrier. If multiple blocks of land are involved, the contribution can be no more than \$5,000 per year. If a small forest landowner must remove a culvert that was lawfully installed and is currently functioning and passing fish with little risk to public resources, the cost-share program pays for 100 percent of that culvert's removal costs.

If a small forest landowner must pay for a portion of a barrier removal, that landowner can satisfy his or her share by providing in-kind services, including labor, equipment, and materials.

Limited funds for the cost-share program must be applied first to known fish blockages that are causing the greatest harm to public resources. DNR is responsible for establishing an order for providing funds that is aimed at first addressing the priority blockages. In establishing this order, 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. Small forest landowners may voluntarily submit plans at any time.

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 is 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 exempt from the continuing forest land obligations provision of the Forests and Fish Law.

Legislative Oversight. The natural resource standing committees review the implementation of the act and the drafting of the checklist. The committees also review the meaning of words in the Forest Practices Act and the Stewardship of Nonindustrial Forest Act.

**Ways & Means Amended Bill Compared to Natural Resources, Energy & Water Amended Bill:** The Ways & Means amendment deletes the provision requiring agencies to implement this act within existing funds.

**Natural Resources, Energy & Water Amended Bill Compared to Second Substitute Bill:** Cost-share requirements are clarified and the ranking of fish passage barriers is expanded. Forest roads and residential home sites are defined. The fact that a forest practices application triggers an RMAP checklist is included. Legislative oversight is added.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Testimony For (Natural Resources, Energy & Water):** The bill is not perfect, but has come a long way and is much clearer. It still meets the federal assurance needs.

**Testimony Against (Natural Resources, Energy & Water):** None.

**Testified (Natural Resources, Energy & Water):** PRO: Joel Kretz, Okanogan Farm Bureau; Sherry Fox, WA Farm Forestry; Hertha Lund, Dan Boeholt, WA Farm Bureau; Bruce Beckett, Weyerhaeuser; Bill Wilkerson, WFPA; Charles Kirschbaum; Lenny Young, Washington Department of Natural Resources; John Mankowski, WDFW; Nels Hanson, WFFA; Bill Robinson, The Nature Conservancy; Nina Carter, Audubon.

**Testimony For (Ways & Means):** This is a bipartisan bill. It affects approximately one-half of the land covered by the Forest and Fish Agreement -- the 4 million acres of the small forest landowner community. Both DNR and WDFW have indicated the fiscal impact of the bill can be diminished by ramping up in the 2003-05 biennium. The initial costs are likely to be \$400,000 to \$450,000 rather than the \$1.4 million in the fiscal note. WDFW would redirect staff working on Forest and Fish and assign new staff to implement this bill. There should be an East-West distinction for landowner cost share for removing fish passage barriers. There should also be a gradation, to reflect the amount of timber harvested.

**Testimony Against (Ways & Means):** Section 12 requires the agencies to work within their current budgets. It should be deleted.

**Testified (Ways & Means):** PRO: Representative Phil Rockefeller, prime sponsor; Marin Flynn, WA Farm Forestry Assn.; Hertha Lund, WA Farm Bureau; John Mankowski, Department of Fish & Wildlife; Leonard Young, Department of Natural Resources. PRO W/CONCERNS: Nina Carter, Audubon.