

---

**SUBSTITUTE SENATE BILL 5298**

---

**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Morton and Doumit; by request of Commissioner of Public Lands)

READ FIRST TIME 03/05/03.

1 AN ACT Relating to assisting small forest landowners with the  
2 forest road maintenance and abandonment plan elements of the forest  
3 practices rules; amending RCW 76.09.020; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that chapter 4, Laws  
6 of 1999 sp. sess. strongly encouraged the forest practices board to  
7 adopt administrative rules that were substantially similar to the  
8 recommendations presented to the legislature in the form of the forests  
9 and fish report. In the time since the enactment of chapter 4, Laws of  
10 1999 sp. sess., it has become clear that both the planning aspect and  
11 the implementation aspect of the road maintenance and abandonment plan  
12 requirement may cause an unforeseen and unintended disproportionate  
13 financial hardship on small forest landowners.

14 **Sec. 2.** RCW 76.09.020 and 2002 c 17 s 1 are each amended to read  
15 as follows:

16 (~~For purposes of this chapter:~~) The definitions in this section  
17 apply throughout this chapter unless the context clearly requires  
18 otherwise.

1 (1) "Adaptive management" means reliance on scientific methods to  
2 test the results of actions taken so that the management and related  
3 policy can be changed promptly and appropriately.

4 (2) "Appeals board" means the forest practices appeals board  
5 created by RCW 76.09.210.

6 (3) "Aquatic resources" includes water quality, salmon, other  
7 species of the vertebrate classes Cephalaspidomorphi and Osteichthyes  
8 identified in the forests and fish report, the Columbia torrent  
9 salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander  
10 (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton*  
11 *olympian*), the Dunn's salamander (*Plethodon dunni*), the Van Dyke's  
12 salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*), and  
13 their respective habitats.

14 (4) "Commissioner" means the commissioner of public lands.

15 (5) "Contiguous" means land adjoining or touching by common corner  
16 or otherwise. Land having common ownership divided by a road or other  
17 right of way shall be considered contiguous.

18 (6) "Conversion to a use other than commercial timber operation"  
19 means a bona fide conversion to an active use which is incompatible  
20 with timber growing and as may be defined by forest practices rules.

21 (7) "Department" means the department of natural resources.

22 (8) "Forest land" means all land which is capable of supporting a  
23 merchantable stand of timber and is not being actively used for a use  
24 which is incompatible with timber growing. Forest land does not  
25 include agricultural land that is or was enrolled in the conservation  
26 reserve enhancement program by contract if such agricultural land was  
27 historically used for agricultural purposes and the landowner intends  
28 to continue to use the land for agricultural purposes in the future.

29 (9) "Forest landowner" means any person in actual control of forest  
30 land, whether such control is based either on legal or equitable title,  
31 or on any other interest entitling the holder to sell or otherwise  
32 dispose of any or all of the timber on such land in any manner(~~+~~  
33 ~~PROVIDED, That~~). However, any lessee or other person in possession of  
34 forest land without legal or equitable title to such land shall be  
35 excluded from the definition of "forest landowner" unless such lessee  
36 or other person has the right to sell or otherwise dispose of any or  
37 all of the timber located on such forest land.

1 (10) "Forest practice" means any activity conducted on or directly  
2 pertaining to forest land and relating to growing, harvesting, or  
3 processing timber, including but not limited to:

4 (a) Road and trail construction;

5 (b) Harvesting, final and intermediate;

6 (c) Precommercial thinning;

7 (d) Reforestation;

8 (e) Fertilization;

9 (f) Prevention and suppression of diseases and insects;

10 (g) Salvage of trees; and

11 (h) Brush control.

12 "Forest practice" shall not include preparatory work such as tree  
13 marking, surveying and road flagging, and removal or harvesting of  
14 incidental vegetation from forest lands such as berries, ferns,  
15 greenery, mistletoe, herbs, mushrooms, and other products which cannot  
16 normally be expected to result in damage to forest soils, timber, or  
17 public resources.

18 (11) "Forest practices rules" means any rules adopted pursuant to  
19 RCW 76.09.040.

20 (12) "Forest trees" does not include hardwood trees cultivated by  
21 agricultural methods in growing cycles shorter than fifteen years if  
22 the trees were planted on land that was not in forest use immediately  
23 before the trees were planted and before the land was prepared for  
24 planting the trees. "Forest trees" includes Christmas trees, but does  
25 not include Christmas trees that are cultivated by agricultural  
26 methods, as that term is defined in RCW 84.33.035.

27 (13) "Forests and fish report" means the forests and fish report to  
28 the board dated April 29, 1999.

29 (14) "Application" means the application required pursuant to RCW  
30 76.09.050.

31 (15) "Operator" means any person engaging in forest practices  
32 except an employee with wages as his or her sole compensation.

33 (16) "Person" means any individual, partnership, private, public,  
34 or municipal corporation, county, the department or other state or  
35 local governmental entity, or association of individuals of whatever  
36 nature.

37 (17) "Public resources" means water, fish and wildlife, and in

1 addition shall mean capital improvements of the state or its political  
2 subdivisions.

3 (18) "Timber" means forest trees, standing or down, of a commercial  
4 species, including Christmas trees. However, "timber" does not include  
5 Christmas trees that are cultivated by agricultural methods, as that  
6 term is defined in RCW 84.33.035.

7 (19) "Timber owner" means any person having all or any part of the  
8 legal interest in timber. Where such timber is subject to a contract  
9 of sale, "timber owner" shall mean the contract purchaser.

10 (20) "Board" means the forest practices board created in RCW  
11 76.09.030.

12 (21) "Unconfined avulsing channel migration zone" means the area  
13 within which the active channel of an unconfined avulsing stream is  
14 prone to move and where the movement would result in a potential near-  
15 term loss of riparian forest adjacent to the stream. Sizeable islands  
16 with productive timber may exist within the zone.

17 (22) "Unconfined avulsing stream" means generally fifth order or  
18 larger waters that experience abrupt shifts in channel location,  
19 creating a complex flood plain characterized by extensive gravel bars,  
20 disturbance species of vegetation of variable age, numerous side  
21 channels, wall-based channels, oxbow lakes, and wetland complexes.  
22 Many of these streams have dikes and levees that may temporarily or  
23 permanently restrict channel movement.

24 (23) "Grazing lands" means land that is primarily used for animal  
25 foraging on naturally occurring or planted vegetation, but does not  
26 include land that is used by free-ranging livestock.

--- END ---