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HOUSE BILL 2740

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State of Washington

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By Representatives Orcutt, Blake and Kretz

Read first time 01/12/2006. Referred to Committee on Natural Resources, Ecology & Parks.

1 AN ACT Relating to reauthorizing the department of natural  
2 resources to have exclusive jurisdiction over all forest practices  
3 applications; amending RCW 76.09.060 and 76.09.065; repealing RCW  
4 76.09.240; and providing an effective date.

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

6 **Sec. 1.** RCW 76.09.060 and 2005 c 274 s 357 are each amended to  
7 read as follows:

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

11 (1) The department shall prescribe the form and contents of the  
12 notification and application. The forest practices rules shall specify  
13 by whom and under what conditions the notification and application  
14 shall be signed or otherwise certified as acceptable. The application  
15 or notification shall be delivered in person to the department, sent by  
16 first class mail to the department or electronically filed in a form  
17 defined by the department. The form for electronic filing shall be  
18 readily convertible to a paper copy, which shall be available to the

1 public pursuant to chapter 42.56 RCW. The information required may  
2 include, but is not limited to:

3 (a) Name and address of the forest landowner, timber owner, and  
4 operator;

5 (b) Description of the proposed forest practice or practices to be  
6 conducted;

7 (c) Legal description and tax parcel identification numbers of the  
8 land on which the forest practices are to be conducted;

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

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

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

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

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

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

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

28 (k) All necessary application or notification fees.

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

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

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

36 (i) The reforestation requirements of this chapter and of the  
37 forest practices rules shall not apply if the land is in fact so

1 converted unless applicable alternatives or limitations are provided in  
2 forest practices rules issued under RCW 76.09.070 as now or hereafter  
3 amended;

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

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

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

15 ~~(i) For six years after the date of the application the))~~ A county,  
16 city, town, ((and)) or regional governmental ((entities shall)) entity  
17 may not deny any ((or all)) applications for permits or approvals,  
18 including building permits and subdivision approvals, relating to  
19 nonforestry uses of land subject to the application((+)

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

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

35 ~~(C) When harvesting takes place without an application, the local  
36 governmental entity shall impose the six year moratorium provided in  
37 (b)(i) of this subsection from the date the unpermitted harvesting was  
38 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)), based on an applicant's failure to state an intention for~~  
33 ~~any land covered by an application under this section to be converted~~  
34 ~~into a nonforestry use or on an applicant's failure to satisfy any~~  
35 ~~forest practices standards that are not required by this chapter.~~

36       (4) Whenever an approved application authorizes a forest practice  
37 which, because of soil condition, proximity to a water course or other  
38 unusual factor, has a potential for causing material damage to a public

1 resource, as determined by the department, the applicant shall, when  
2 requested on the approved application, notify the department two days  
3 before the commencement of actual operations.

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

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

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

33 (8) Forest practices applications or notifications are not required  
34 for forest practices conducted to control exotic forest insect or  
35 disease outbreaks, when conducted by or under the direction of the  
36 department of agriculture in carrying out an order of the governor or  
37 director of the department of agriculture to implement pest control  
38 measures as authorized under chapter 17.24 RCW, and are not required

1 when conducted by or under the direction of the department in carrying  
2 out emergency measures under a forest health emergency declaration by  
3 the commissioner of public lands as provided in RCW 76.06.130.

4 (a) For the purposes of this subsection, exotic forest insect or  
5 disease has the same meaning as defined in RCW 76.06.020.

6 (b) In order to minimize adverse impacts to public resources,  
7 control measures must be based on integrated pest management, as  
8 defined in RCW 17.15.010, and must follow forest practices rules  
9 relating to road construction and maintenance, timber harvest, and  
10 forest chemicals, to the extent possible without compromising control  
11 objectives.

12 (c) Agencies conducting or directing control efforts must provide  
13 advance notice to the appropriate regulatory staff of the department of  
14 the operations that would be subject to exemption from forest practices  
15 application or notification requirements.

16 (d) When the appropriate regulatory staff of the department are  
17 notified under (c) of this subsection, they must consult with the  
18 landowner, interested agencies, and affected tribes, and assist the  
19 notifying agencies in the development of integrated pest management  
20 plans that comply with forest practices rules as required under (b) of  
21 this subsection.

22 (e) Nothing under this subsection relieves agencies conducting or  
23 directing control efforts from requirements of the federal clean water  
24 act as administered by the department of ecology under RCW 90.48.260.

25 (f) Forest lands where trees have been cut as part of an exotic  
26 forest insect or disease control effort under this subsection are  
27 subject to reforestation requirements under RCW 76.09.070.

28 (g) The exemption from obtaining approved forest practices  
29 applications or notifications does not apply to forest practices  
30 conducted after the governor, the director of the department of  
31 agriculture, or the commissioner of public lands have declared that an  
32 emergency no longer exists because control objectives have been met,  
33 that there is no longer an imminent threat, or that there is no longer  
34 a good likelihood of control.

35 **Sec. 2.** RCW 76.09.065 and 2000 c 11 s 5 are each amended to read  
36 as follows:

37 (1) Effective July 1, 1997, an applicant shall pay an application

1 fee (~~and a recording fee, if applicable,~~) at the time an application  
2 or notification is submitted to the department (~~or to the local~~  
3 ~~governmental entity as provided in this chapter~~)).

4 (2) For applications and notifications (~~submitted to the~~  
5 ~~department~~), the application fee shall be fifty dollars for class II,  
6 III, and IV forest practices applications or notifications relating to  
7 the commercial harvest of timber. However, the fee shall be five  
8 hundred dollars for class IV forest practices applications on lands  
9 being converted to other uses or on lands which are not to be  
10 reforested because of the likelihood of future conversion to urban  
11 development or on lands that are contained within "urban growth areas,"  
12 designated pursuant to chapter 36.70A RCW, except the fee shall be  
13 fifty dollars on those lands where the forest landowner provides(~~(+~~

14 ~~(a))~~) a written statement of intent signed by the forest landowner  
15 not to convert to a use other than commercial forest product operations  
16 for ten years, accompanied by either a written forest management plan  
17 acceptable to the department or documentation that the land is enrolled  
18 under the provisions of chapter 84.33 RCW(~~(+ or~~

19 ~~(b) A conversion option harvest plan approved by the local~~  
20 ~~governmental entity and submitted to the department as part of the~~  
21 ~~forest practices application~~)).

22 All money collected from fees under this subsection shall be deposited  
23 in the state general fund.

24 (3) (~~For applications submitted to the local governmental entity,~~  
25 ~~the fee shall be five hundred dollars for class IV forest practices on~~  
26 ~~lands being converted to other uses or lands that are contained within~~  
27 ~~"urban growth areas," designated pursuant to chapter 36.70A RCW, except~~  
28 ~~as otherwise provided in this section, unless a different fee is~~  
29 ~~otherwise provided by the local governmental entity.~~

30 ~~(4) Recording fees shall be as provided in chapter 36.18 RCW.~~

31 ~~(5))~~) An application fee under subsection (2) of this section shall  
32 be refunded or credited to the applicant if either the application or  
33 notification is disapproved by the department or the application or  
34 notification is withdrawn by the applicant due to restrictions imposed  
35 by the department.

36 NEW SECTION. **Sec. 3.** Section 1 of this act takes effect July 1,  
37 2006.

1        NEW SECTION.    **Sec. 4.**    RCW 76.09.240 (Class IV forest practices--  
2    Counties and cities adopt standards--Administration and enforcement of  
3    regulations--Restrictions upon local political subdivisions or regional  
4    entities--Exceptions and limitations) and 2002 c 121 s 2, 1997 c 173 s  
5    5, 1975 1st ex.s. c 200 s 11, & 1974 ex.s. c 137 s 24 are each  
6    repealed.

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