

SENATE BILL REPORT

SB 6759

As of February 5, 2008

Title: An act relating to application of the forest practices act.

Brief Description: Precluding the application of chapter 76.09 RCW, the forest practices act, to certain publicly beneficial activities.

Sponsors: Senator Morton.

Brief History:

Committee Activity: Natural Resources, Ocean & Recreation: 2/04/08.

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Staff: Curt Gavigan (786-7437)

Background: The 1999 Forests and Fish Report included provisions for road maintenance and abandonment planning; and road improvement, abandonment, and maintenance activities. That same year, the Legislature directed the Department of Natural Resources (DNR) to adopt rules based on the recommendations of the Forests and Fish Report.

The Forest Practices Rules (rules) state that well designed, constructed, and maintained forest roads are key to forest management and the protection of the public resources. The basic policy behind the rules is to protect water quality and riparian habitat by limiting sediment delivery and surface water runoff from forest roads.

All forest landowners must maintain forest roads to the extent necessary to prevent potential or actual damage to public resources. Generally, large forest landowners were to have included their forest roads in a road maintenance and abandonment plan (RMAP) by July 1, 2006. Road work under a large landowner's plan must be completed by July 1, 2016. Most small forest landowners must conduct such planning, known as a checklist RMAP, only for areas where they plan to conduct forest practices.

The RMAP requirements apply to forest roads. For purposes of RMAP requirements that apply to small forest landowners, the term "forest road" means a road or road segment that crosses forest land. Residential access roads are not forest roads. Additionally, residential home sites of up to five acres are not considered forest land.

DNR may issue a stop work order for activities including violations of forest practices requirements, deviation from an approved forest practices application, or where the order is necessary to avoid material damage to a public resource.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: In addition to residential access roads, public utility access roads are excluded from the definition of a forest road for the purposes of RMAP requirements that apply to small forest landowners.

Small forest landowner residential home sites, which are excluded from the definition of "forest land," may include up to 20 acres. Under current law the maximum size is five acres.

For an activity that is not related to a commercial forest practice and is related to a public benefit, such as providing for utilities: (1) forest roads exempt from permitting based on a habitat incentives agreement with DNR and the Department of Fish and Wildlife include roads up to 2,000 feet long; and (2) an activity that would qualify for a stop work is automatically subject to a notice of failure to comply.

Appropriation: None.

Fiscal Note: Requested on January 29, 2008.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The criticism is not of DNR, but of the law. The law should be changed to provide more flexibility to PUDs, as stop work orders can be costly when they interrupt contracted work. The Stevens County PUD went ahead with a project without knowing they needed a forest practices permit. Instead of using less drastic and costly measures, DNR issued a stop work order.

CON: The bill changes provisions of the Forest Practices Act that could require review of the recent habitat conservation plan, including the National Environmental Policy Act process. Additionally, restricting use of the stop work order could require the DNR to use court orders, which would be a cumbersome process. DNR needs the currently available enforcement tools, but can work on communication and closer relationship with PUDs in the future.

Persons Testifying: PRO: Richard Price, Stevens County PUD.

CON: Stephen Bernath, Department of Ecology; Leonard Young, DNR.