
SENATE BILL 6759

State of Washington

60th Legislature

2008 Regular Session

By Senator Morton

Read first time 01/23/08. Referred to Committee on Natural Resources, Ocean & Recreation.

1 AN ACT Relating to application of the forest practices act;
2 amending RCW 76.09.020; and adding a new section to chapter 76.09 RCW.

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

4 **Sec. 1.** RCW 76.09.020 and 2003 c 311 s 3 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

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

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

13 (3) "Aquatic resources" includes water quality, salmon, other
14 species of the vertebrate classes Cephalaspidomorphi and Osteichthyes
15 identified in the forests and fish report, the Columbia torrent
16 salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander
17 (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton*
18 *olympian*), the Dunn's salamander (*Plethodon dunnii*), the Van Dyke's

1 salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*), and
2 their respective habitats.

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

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

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

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

11 (8) "Fish passage barrier" means any artificial instream structure
12 that impedes the free passage of fish.

13 (9) "Forest land" means all land which is capable of supporting a
14 merchantable stand of timber and is not being actively used for a use
15 which is incompatible with timber growing. Forest land does not
16 include agricultural land that is or was enrolled in the conservation
17 reserve enhancement program by contract if such agricultural land was
18 historically used for agricultural purposes and the landowner intends
19 to continue to use the land for agricultural purposes in the future.
20 As it applies to the operation of the road maintenance and abandonment
21 plan element of the forest practices rules on small forest landowners,
22 the term "forest land" excludes:

23 (a) Residential home sites, which may include up to (~~five~~) twenty
24 acres; and

25 (b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens,
26 and the land on which appurtenances necessary to the production,
27 preparation, or sale of crops, fruit, dairy products, fish, and
28 livestock exist.

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

1 (11) "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 (12) "Forest practices rules" means any rules adopted pursuant to
19 RCW 76.09.040.

20 (13) "Forest road," as it applies to the operation of the road
21 maintenance and abandonment plan element of the forest practices rules
22 on small forest landowners, means a road or road segment that crosses
23 land that meets the definition of forest land, but excludes residential
24 or public utility access roads.

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

32 (15) "Forests and fish report" means the forests and fish report to
33 the board dated April 29, 1999.

34 (16) "Application" means the application required pursuant to RCW
35 76.09.050.

36 (17) "Operator" means any person engaging in forest practices
37 except an employee with wages as his or her sole compensation.

1 (18) "Person" means any individual, partnership, private, public,
2 or municipal corporation, county, the department or other state or
3 local governmental entity, or association of individuals of whatever
4 nature.

5 (19) "Public resources" means water, fish and wildlife, and in
6 addition shall mean capital improvements of the state or its political
7 subdivisions.

8 (20) "Small forest landowner" has the same meaning as defined in
9 RCW 76.09.450.

10 (21) "Timber" means forest trees, standing or down, of a commercial
11 species, including Christmas trees. However, "timber" does not include
12 Christmas trees that are cultivated by agricultural methods, as that
13 term is defined in RCW 84.33.035.

14 (22) "Timber owner" means any person having all or any part of the
15 legal interest in timber. Where such timber is subject to a contract
16 of sale, "timber owner" shall mean the contract purchaser.

17 (23) "Board" means the forest practices board created in RCW
18 76.09.030.

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

24 (25) "Unconfined avulsing stream" means generally fifth order or
25 larger waters that experience abrupt shifts in channel location,
26 creating a complex floodplain characterized by extensive gravel bars,
27 disturbance species of vegetation of variable age, numerous side
28 channels, wall-based channels, oxbow lakes, and wetland complexes.
29 Many of these streams have dikes and levees that may temporarily or
30 permanently restrict channel movement.

31 NEW SECTION. **Sec. 2.** A new section is added to chapter 76.09 RCW
32 to read as follows:

33 When an activity is unrelated to commercial forest practices and is
34 related to a public benefit, such as providing for utilities, the
35 following apply:

36 (1) Forest roads exempted from permitting under RCW 76.09.063 shall
37 include roads up to two thousand feet in length; and

1 (2) An activity that would otherwise qualify for a stop work order
2 under RCW 76.09.080 shall automatically be subject to a notice under
3 RCW 76.09.090.

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