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HOUSE BILL 2747

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State of Washington

63rd Legislature

2014 Regular Session

By Representatives Blake, Orcutt, and Tharinger; by request of Department of Natural Resources and Department of Ecology

Read first time 01/30/14. Referred to Committee on Appropriations.

1 AN ACT Relating to streamlining forest and fish agreement-related  
2 programs providing funding with accountability by transferring proceeds  
3 from the state forest harvest excise tax to a dedicated account;  
4 amending RCW 84.33.081, 43.09.475, 84.33.0775, and 84.33.046;  
5 reenacting and amending RCW 76.09.405 and 76.09.020; adding a new  
6 section to chapter 43.09 RCW; adding a new section to chapter 76.09  
7 RCW; and providing a contingent effective date.

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

9 **Sec. 1.** RCW 84.33.081 and 2007 c 69 s 5 are each amended to read  
10 as follows:

11 (1) On the last business day of the second month of each calendar  
12 quarter, the state treasurer (~~shall~~) must distribute from the timber  
13 tax distribution account:

14 (a) To each county: The amount of tax collected on behalf of each  
15 county under RCW 84.33.051, less each county's proportionate share of  
16 appropriations for collection and administration activities under RCW  
17 84.33.051(~~, and shall transfer to the state general fund the amount of~~  
18 ~~tax collected on behalf of the state under RCW 84.33.041, less the~~  
19 ~~amount of the distribution under subsection (7) of this section and the~~

1 ~~state's proportionate share of appropriations for collection and~~  
2 ~~administration activities under RCW 84.33.041)).~~ The county treasurer  
3 ~~((shall))~~ must deposit moneys received under this section in a county  
4 timber tax account ~~((which shall))~~ that must be established by each  
5 county. Following receipt of moneys under this section, the county  
6 treasurer ~~((shall))~~ must make distributions from any moneys available  
7 in the county timber tax account to taxing districts in the county,  
8 except the state, under subsections (2) through (4) of this section.

9 (b)(i) For fiscal years 2016 through 2040, to the forest and fish  
10 support account created in RCW 76.09.405: The amount of tax collected  
11 on behalf of the state under RCW 84.33.041 up to the limits according  
12 to the following schedule, less the amount of the distribution under  
13 subsections (1)(d) and (7) of this section, and the state's  
14 proportionate share of appropriations for collection and administration  
15 activities under RCW 84.33.041. These annual distributions from the  
16 timber tax distribution account are based on the May 24, 2012,  
17 settlement agreement entered into by the department of natural  
18 resources and the department of ecology. The distribution schedule is  
19 as follows:

20 (A) Three million six hundred thousand dollars for the 2016 fiscal  
21 year;

22 (B) Four million dollars for the 2017 through 2019 fiscal years;

23 (C) Three million five hundred thousand dollars for the 2020 and  
24 2021 fiscal years;

25 (D) Three million dollars for fiscal years 2022 through 2029;

26 (E) One million two hundred thousand dollars for fiscal years 2030  
27 through 2040.

28 (ii) If RCW 76.09.405(3) becomes operative, the distributions in  
29 (b)(i) of this subsection must be transferred by the state treasurer in  
30 equal parts to the appropriate accounts to support the programs listed  
31 in (c)(iii) of this subsection.

32 (c)(i) For fiscal years 2016 through 2040, any tax collections in  
33 excess of the numbers provided in the schedule listed in (b)(i) of this  
34 subsection must be transferred by the state treasurer in equal parts to  
35 the appropriate accounts to support the programs listed in (c)(iii) of  
36 this subsection.

37 (ii) Beginning in fiscal year 2041, in equal parts to the  
38 appropriate accounts to support the programs listed in (c)(iii) of this

1 subsection: The amount of tax collected on behalf of the state under  
2 RCW 84.33.041 less the amount of the distribution under subsection (7)  
3 of this section, and the state's proportionate share of appropriations  
4 for collection and administration activities under RCW 84.33.041.

5 (iii) The following programs will receive distributions:

6 (A) The forestry riparian easement program established in RCW  
7 76.13.120;

8 (B) The family forest fish passage program created pursuant to RCW  
9 76.13.150 that provides public cost assistance to small forest  
10 landowners associated with the road maintenance and abandonment  
11 processes; and

12 (C) The program for riparian open space and critical habitat  
13 created pursuant to RCW 76.09.040, beginning in fiscal year 2017.

14 (d)(i) Through fiscal year 2040, to the performance audits of  
15 government account created in RCW 43.09.475: One hundred thousand  
16 dollars every other biennia, beginning in the biennium starting July 1,  
17 2017.

18 (ii) If RCW 76.09.405(3) becomes operative, the distributions in  
19 (b)(i) of this subsection must be transferred by the state treasurer in  
20 equal parts to the appropriate accounts to support the programs listed  
21 in (c)(iii) of this subsection.

22 (2) From moneys available, there first (~~shall~~) must be a  
23 distribution to each taxing district having debt service payments due  
24 during the calendar year, based upon bonds issued under authority of a  
25 vote of the people conducted pursuant to RCW 84.52.056 and based upon  
26 excess levies for a capital project fund authorized pursuant to RCW  
27 84.52.053, of an amount equal to the timber assessed value of the  
28 district multiplied by the tax rate levied for payment of the debt  
29 service and capital projects(~~(+ PROVIDED, That)~~). However, in respect  
30 to levies for a debt service or capital project fund authorized before  
31 July 1, 1984, the amount allocated (~~shall~~) may not be less than an  
32 amount equal to the same percentage of such debt service or capital  
33 project fund represented by timber tax allocations to such payments in  
34 calendar year 1984. Distribution under this subsection (2) (~~shall~~)  
35 may be used only for debt service and capital projects payments. The  
36 distribution under this subsection (~~shall~~) must be made as follows:  
37 One-half of such amount (~~shall~~) must be distributed in the first

1 quarter of the year and one-half (~~shall~~) must be distributed in the  
2 third quarter of the year.

3 (3) From the moneys remaining after the distributions under  
4 subsection (2) of this section, the county treasurer (~~shall~~) must  
5 distribute to each school district an amount equal to one-half of the  
6 timber assessed value of the district or eighty percent of the timber  
7 roll of such district in calendar year 1983 as determined under this  
8 chapter, whichever is greater, multiplied by the tax rate, if any,  
9 levied by the district under RCW 84.52.052 or 84.52.053 for purposes  
10 other than debt service payments and capital projects supported under  
11 subsection (2) of this section. The distribution under this subsection  
12 (~~shall~~) must be made as follows: One-half of such amount (~~shall~~)  
13 must be distributed in the first quarter of the year and one-half  
14 (~~shall~~) must be distributed in the third quarter of the year.

15 (4) After the distributions directed under subsections (2) and (3)  
16 of this section, if any, each taxing district (~~shall~~) must receive an  
17 amount equal to the timber assessed value of the district multiplied by  
18 the tax rate, if any, levied as a regular levy of the district or as a  
19 special levy not included in subsection (2) or (3) of this section.

20 (5) If there are insufficient moneys in the county timber tax  
21 account to make full distribution under subsection (4) of this section,  
22 the county treasurer (~~shall~~) must multiply the amount to be  
23 distributed to each taxing district under that subsection by a  
24 fraction. The numerator of the fraction is the county timber tax  
25 account balance before making the distribution under that subsection.  
26 The denominator of the fraction is the account balance which would be  
27 required to make full distribution under that subsection.

28 (6) After making the distributions under subsections (2) through  
29 (4) of this section in the full amount indicated for the calendar year,  
30 the county treasurer (~~shall~~) must place any excess revenue up to  
31 twenty percent of the total distributions made for the year under  
32 subsections (2) through (4) of this section in a reserve status until  
33 the beginning of the next calendar year. Any moneys remaining in the  
34 county timber tax account after this amount is placed in reserve  
35 (~~shall~~) must be distributed to each taxing district in the county in  
36 the same proportions as the distributions made under subsection (4) of  
37 this section.

1 (7) On the last business day of the second month of each calendar  
2 quarter, the state treasurer (~~shall~~) must distribute from the timber  
3 tax distribution account to each county an amount of tax collected by  
4 the state under RCW 84.33.041 equal to the amount of any tribal tax  
5 credited against the county's tax under an agreement entered into under  
6 RCW 43.06.480.

7 **Sec. 2.** RCW 76.09.405 and 2007 c 54 s 3 and 2007 c 48 s 1 are each  
8 reenacted and amended to read as follows:

9 (1) The forest and fish support account is hereby created in the  
10 state treasury. Receipts from appropriations, the surcharge imposed  
11 under RCW 82.04.261, the designated distributions from the timber tax  
12 distribution account under RCW 84.33.081, and other sources must be  
13 deposited into the account.

14 (2)(a) Except for money entering the account through a distribution  
15 from the timber tax distribution account, all expenditures from the  
16 account (~~shall~~) must be used for activities pursuant to the state's  
17 implementation of the forests and fish report as defined in this  
18 chapter and related activities including, but not limited to, adaptive  
19 management, monitoring, and participation grants to tribes, state and  
20 local agencies, and not-for-profit public interest organizations.

21 (b)(i) Except as provided in (b)(ii) of this subsection, until June  
22 30, 2041, all moneys entering the account through distributions from  
23 the timber tax distribution account may only be used for conducting and  
24 completing the work identified in the cooperative monitoring,  
25 evaluation, and research work plan as adopted by the forest practices  
26 board. The annual distributions from the timber tax distribution  
27 account are based on the May 24, 2012, settlement agreement entered  
28 into by the department and the department of ecology.

29 (ii) After the close of each fiscal biennium, any moneys received  
30 in distributions from the timber tax distribution account which remain  
31 unexpended in excess of five hundred thousand dollars must be  
32 transferred by the state treasurer no later than September 30th of each  
33 year in equal parts to the appropriate accounts to support the programs  
34 listed in RCW 84.33.081(1)(c)(iii).

35 (iii) The department must issue a biennial report to the  
36 legislature, consistent with RCW 43.01.036, that details the receipts

1 and distributions made under this section, the amounts used on work  
2 under the cooperative monitoring, evaluation, and research master  
3 schedule, and transfers made under (b)(ii) of this subsection.

4 (3) Distributions from the timber tax distribution account to the  
5 forest and fish support account that support endangered species act,  
6 incidental take permit, or habitat conservation plan compliance will  
7 cease and those distributions will be transferred equally to the  
8 programs listed in RCW 84.33.081(1)(c)(iii) six months after any of the  
9 following occur:

10 (a) The state's incidental take permit identified in RCW  
11 77.85.190(2) is terminated, revoked, or rendered ineffective by federal  
12 legislation, rule making, or by a final decision of a court of  
13 competent jurisdiction or is substantially altered outside of the  
14 adaptive management process created in RCW 76.09.370; or

15 (b) The state withdraws from the forest and fish habitat  
16 conservation plan or relinquishes its incidental take permit.

17 (4) Distributions from the timber tax distribution account to the  
18 forest and fish support account that support clean water compliance  
19 will cease and those distributions will be transferred equally to the  
20 programs listed in RCW 84.33.081(1)(c)(iii) six months after the  
21 following occurs: The state, the United States environmental  
22 protection agency, or a court of competent jurisdiction made a final  
23 determination that clean water act assurances are terminated, revoked,  
24 or otherwise rendered ineffective by federal, state legislation, or  
25 rule making.

26 (5) Distributions must be reinstated in the following  
27 circumstances:

28 (a) If the incidental take permit or clean water act assurances  
29 identified in subsections (3) and (4) of this section are reinstated;  
30 or

31 (b) The forest practices board, consistent with the adaptive  
32 management process provided in RCW 76.09.370, and after consultation  
33 with appropriate federal and state agencies, tribes, and other  
34 stakeholders, requests distributions to fund specific studies and  
35 activities designed to support reinstatement of clean water assurances  
36 and the incidental take permit. Such distributions must be limited to  
37 the funds identified to complete the studies and specified activities.

1       (6) Expenditures from the account may also be used for reviews  
2 conducted by the Washington state institute for public policy described  
3 in section 7 of this act.

4       (7) Expenditures from the account may be made only after  
5 appropriation by the legislature.

6       (8) Nothing in this section affects the legislature from funding  
7 the forest practices program from other sources.

8       **Sec. 3.** RCW 43.09.475 and 2013 2nd sp.s. c 4 s 974 are each  
9 amended to read as follows:

10       The performance audits of government account is hereby created in  
11 the custody of the state treasurer. Revenue identified in RCW  
12 82.08.020(5) (~~and~~), 82.12.0201 (~~shall~~), and 84.33.081 must be  
13 deposited in the account. Money in the account (~~shall~~) must be used  
14 to fund the implementation of section 4 of this act, performance  
15 audits, and follow-up performance audits under RCW 43.09.470 and  
16 (~~shall~~) must be expended by the state auditor in accordance with  
17 chapter 1, Laws of 2006. Only the state auditor or the state auditor's  
18 designee may authorize expenditures from the account. The account is  
19 subject to allotment procedures under chapter 43.88 RCW, but an  
20 appropriation is not required for expenditures. During the 2011-2013  
21 and the 2013-2015 fiscal biennia, the performance audits of government  
22 account may be appropriated for fraud investigations in the state  
23 auditor's office and the department of social and health services,  
24 audit and collection functions in the department of revenue, the joint  
25 legislative audit and review committee, the office of financial  
26 management, the superintendent of public instruction and audits of  
27 school districts. In addition, during the 2011-2013 and 2013-2015  
28 fiscal biennia the account may be used to fund the office of financial  
29 management's contract for the compliance audit of the state auditor.

30       NEW SECTION. **Sec. 4.** A new section is added to chapter 43.09 RCW  
31 to read as follows:

32       The state auditor must, in each fiscal biennium that the  
33 performance audits of government account receives distributions from  
34 the timber tax distribution account under RCW 84.33.081, conduct a  
35 fiscal audit of the department of natural resources' compliance with

1 the requirements of RCW 76.09.405(2). Each audit performed under this  
2 section must include all previous biennia since the most recent past  
3 audit.

4 **Sec. 5.** RCW 84.33.0775 and 2010 c 210 s 35 are each amended to  
5 read as follows:

6 (1) A taxpayer is allowed a credit against the tax imposed under  
7 RCW 84.33.041 for timber harvested (~~on and after~~) between January 1,  
8 2000, and June 30, 2015, under a forest practices notification filed or  
9 application approved under RCW 76.09.050 and subject to enhanced  
10 aquatic resources requirements.

11 (2)(a) For a person other than a small harvester who elects to  
12 calculate tax under RCW 84.33.074, the credit is equal to the stumpage  
13 value of timber harvested for sale or for commercial or industrial use  
14 multiplied by eight-tenths of one percent.

15 (b) For a small harvester who elects to calculate tax under RCW  
16 84.33.074, the credit is equal to sixteen percent of the tax imposed  
17 under this chapter.

18 (c) The amount of credit claimed by a taxpayer under this section  
19 (~~shall~~) must be reduced by the amount of any compensation received  
20 from the federal government for reduced timber harvest due to enhanced  
21 aquatic resource requirements. If the amount of compensation from the  
22 federal government exceeds the amount of credit available to a taxpayer  
23 in any reporting period, the excess (~~shall~~) must be carried forward  
24 and applied against credits in future reporting periods. This  
25 subsection does not apply to small harvesters (~~as defined in RCW~~  
26 ~~84.33.073~~)).

27 (d) Refunds may not be given in place of credits. Credit may not  
28 be claimed in excess of tax owed. The department (~~of revenue shall~~)  
29 must disallow any credits, used or unused, upon written notification  
30 from the department of natural resources of a final decision that  
31 timber for which credit was claimed was not harvested under a forest  
32 practices notification filed or application approved under RCW  
33 76.09.050 and subject to enhanced aquatic resources requirements.

34 (3) As used in this section, a forest practices notification or  
35 application is subject to enhanced aquatic resource requirements if it  
36 includes, in whole or in part, riparian area, wetland, or steep or  
37 unstable slope from which the operator is limited, by rule adopted



1 under RCW 76.09.055, 34.05.090, 43.21C.250, and 76.09.370, or any  
2 federally approved habitat conservation plan or department of natural  
3 resources approved watershed analysis, from harvesting timber, or if a  
4 road is included within or adjacent to the area covered by such  
5 notification or application and the road is covered by a road  
6 maintenance plan approved by the department of natural resources under  
7 rules adopted under chapter 76.09 RCW, the forest practices act, or a  
8 federally approved habitat conservation plan.

9 (4) For forest practices notification or applications submitted  
10 after January 1, 2000, the department of natural resources (~~shall~~)  
11 must indicate whether the notification or application is subject to  
12 enhanced aquatic resource requirements and, unless notified of a  
13 contrary determination by the pollution control hearings board, the  
14 department (~~of revenue shall~~) must use such indication in determining  
15 the credit to be allowed against the tax assessed under RCW 84.33.041.  
16 The department of natural resources (~~shall~~) must develop revisions to  
17 the form of the forest practices notifications and applications to  
18 provide a space for the applicant to indicate and the department of  
19 natural resources to confirm or not confirm, whether the notification  
20 or application is subject to enhanced aquatic resource requirements.  
21 For forest practices notifications or applications submitted before  
22 January 1, 2000, the applicant may submit the approved notification or  
23 application to the department of natural resources for confirmation  
24 that the notification or application is subject to enhanced aquatic  
25 resource requirements. Upon any such submission, the department of  
26 natural resources will within thirty days confirm or deny that the  
27 notification or application is subject to enhanced aquatic resource  
28 requirements and will forward separate evidence of each confirmation to  
29 the department of revenue. Unless notified of a contrary ruling by the  
30 pollution control hearings board, the department (~~of revenue shall~~)  
31 must use the separate confirmations in determining the credit to be  
32 allowed against the tax assessed under RCW 84.33.041.

33 (5) A refusal by the department of natural resources to confirm  
34 that a notification or application is subject to enhanced aquatic  
35 resources requirements may be appealed to the pollution control  
36 hearings board.

37 (6) A person receiving approval of credit must keep records

1 necessary for the department ((of revenue)) to verify eligibility under  
2 this section.

3 **Sec. 6.** RCW 84.33.046 and 1984 c 204 s 7 are each amended to read  
4 as follows:

5 (1) The rate of tax imposed under RCW 84.33.041 for timber  
6 harvested between July 1, 1988, and ((thereafter, shall be)) June 30,  
7 2015, is five percent.

8 (2) The rate of tax imposed under RCW 84.33.041 for timber  
9 harvested after June 30, 2015, is five percent, except that for timber  
10 harvested under a forest practices notification filed or application  
11 approved under RCW 76.09.050 the rate of tax imposed is 4.2 percent.  
12 The rate provided in this subsection is calculated to compensate the  
13 taxpayer for the termination of access to the tax credit created in RCW  
14 84.33.0775 beginning on the same date.

15 (3) The legislature finds that the change in the tax rate for  
16 timber harvest provided in this section is a measure to ensure an  
17 equalization in the tax rate necessary for technical consistency due to  
18 the elimination of a tax credit available to those same taxpayers in  
19 RCW 84.33.0775. This section is a government streamlining reform, does  
20 not represent a tax preference, and is not an attempt by the  
21 legislature to induce a specific performance. As such, this section is  
22 exempt from the provisions of RCW 82.32.805 and 82.32.808.

23 NEW SECTION. **Sec. 7.** A new section is added to chapter 76.09 RCW  
24 to read as follows:

25 (1) The Washington state institute for public policy must study  
26 and, if appropriate, make recommendations to the legislature related to  
27 the management, funding, transparency, efficiency, effectiveness, and  
28 overall operations of the adaptive management program at the department  
29 of natural resources.

30 (2) The Washington state institute for public policy must consult  
31 with interested stakeholders for input on additional issues to be  
32 included in the study, however, at a minimum, the study must consider  
33 and draw conclusions relating to:

34 (a) The process for prioritization, revision, inclusion, and  
35 exclusion of projects relating to cooperative monitoring, evaluation,

1 and research by topical group; including a review of project relevancy  
2 and the existence of current research to justify recent revisions;

3 (b) The capacity and ability for the adaptive management program to  
4 implement the timelines approved by the forest practices board;  
5 including a review funding, the scientific qualifications of the  
6 participants, the research methods used, the degree to which lean  
7 process recommendations have been implemented, and the other resources  
8 available to the program;

9 (c) The anticipated tasks of the adaptive management program that  
10 are not related to the master schedule of cooperative monitoring,  
11 evaluation, and research work;

12 (d) The process by which policy decisions are informed by research  
13 and research is directed by policy decisions; including potential  
14 science workloads dictated by those policy discussions;

15 (e) The degree to which related scientific research conforms to  
16 modern research principles and degrees of peer review; and

17 (f) The exploration of additional contracting tools for study  
18 initiation and implementation.

19 (3) The Washington state institute for public policy is authorized  
20 to contract with consultants if specialized work is required to conduct  
21 the review required in this section and the state treasurer is  
22 authorized to allocate up to one hundred thousand dollars to the  
23 Washington state institute for public policy from the forest and fish  
24 support account created in RCW 76.09.405 for the purposes of each  
25 review under subsection (4) of this section.

26 (4) The Washington state institute for public policy must complete  
27 the initial implementation of this section by no later than October 31,  
28 2016, and must update its review every five years on a schedule  
29 consistent with the five-year review required in the forest practices  
30 habitat conservation plan. Prior to each subsequent five-year review,  
31 the forest practices board must review and if necessary, modify the  
32 issues required in the review. If RCW 76.09.405(3) (a) or (b) takes  
33 effect, no further reviews by the Washington state institute for public  
34 policy are required.

35 **Sec. 8.** RCW 76.09.020 and 2012 1st sp.s. c 1 s 212 are each  
36 reenacted and amended to read as follows:

1 The definitions in this section apply throughout this chapter  
2 unless the context clearly requires otherwise.

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

6 (2) "Appeals board" means the pollution control hearings board  
7 created by RCW 43.21B.010.

8 (3) "Application" means the application required pursuant to RCW  
9 76.09.050.

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

18 (5) "Board" means the forest practices board created in RCW  
19 76.09.030.

20 (6) "Commissioner" means the commissioner of public lands.

21 (7) "Contiguous" means land adjoining or touching by common corner  
22 or otherwise. Land having common ownership divided by a road or other  
23 right-of-way (~~(shall be)~~) is considered contiguous.

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

27 (9) "Date of receipt" has the same meaning as defined in RCW  
28 43.21B.001.

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

30 (11) "Ecosystem services" means the benefits that the public enjoys  
31 as a result of natural processes and biological diversity.

32 (12) "Ecosystem services market" means a system in which providers  
33 of ecosystem services can access financing or market capital to  
34 protect, restore, and maintain ecological values, including the full  
35 spectrum of regulatory, quasiregulatory, and voluntary markets.

36 (13) "Fill" means the placement of earth material or aggregate for  
37 road or landing construction or other similar activities.

1 (14) "Fish passage barrier" means any artificial instream structure  
2 that impedes the free passage of fish.

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

13 (a) Residential home sites, which may include up to five acres; and

14 (b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens,  
15 and the land on which appurtenances necessary to the production,  
16 preparation, or sale of crops, fruit, dairy products, fish, and  
17 livestock exist.

18 (16) "Forest landowner" means any person in actual control of  
19 forest land, whether such control is based either on legal or equitable  
20 title, or on any other interest entitling the holder to sell or  
21 otherwise dispose of any or all of the timber on such land in any  
22 manner. However, any lessee or other person in possession of forest  
23 land without legal or equitable title to such land shall be excluded  
24 from the definition of "forest landowner" unless such lessee or other  
25 person has the right to sell or otherwise dispose of any or all of the  
26 timber located on such forest land.

27 (17)(a) "Forest practice" means any activity conducted on or  
28 directly pertaining to forest land and relating to growing, harvesting,  
29 or processing timber, including but not limited to:

30 ((+a)) (i) Road and trail construction, including forest practices  
31 hydraulic projects that include water crossing structures, and  
32 associated activities and maintenance;

33 ((+b)) (ii) Harvesting, final and intermediate;

34 ((+c)) (iii) Precommercial thinning;

35 ((+d)) (iv) Reforestation;

36 ((+e)) (v) Fertilization;

37 ((+f)) (vi) Prevention and suppression of diseases and insects;

38 ((+g)) (vii) Salvage of trees; and

1 ((~~h~~)) (viii) Brush control.

2 (b) "Forest practice" (~~(shall)~~) does not include preparatory work  
3 such as tree marking, surveying and road flagging, and removal or  
4 harvesting of incidental vegetation from forest lands such as berries,  
5 ferns, greenery, mistletoe, herbs, mushrooms, and other products which  
6 cannot normally be expected to result in damage to forest soils,  
7 timber, or public resources.

8 (18) "Forest practices hydraulic project" means a hydraulic  
9 project, as defined under RCW 77.55.011, that requires a forest  
10 practices application or notification under this chapter.

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

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

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

25 (22) "Forests and fish report" means the forests and fish report to  
26 the board dated April 29, 1999.

27 (23) "Operator" means any person engaging in forest practices  
28 except an employee with wages as his or her sole compensation.

29 (24) "Person" means any individual, partnership, private, public,  
30 or municipal corporation, county, the department or other state or  
31 local governmental entity, or association of individuals of whatever  
32 nature.

33 (25) "Public resources" means water, fish and wildlife, and in  
34 addition (~~(shall)~~) means capital improvements of the state or its  
35 political subdivisions.

36 (26) "Small forest landowner" has the same meaning as defined in  
37 RCW 76.09.450.

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

5 (28) "Timber owner" means any person having all or any part of the  
6 legal interest in timber. Where such timber is subject to a contract  
7 of sale, "timber owner" (~~shall~~) means the contract purchaser.

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

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

20 (31) "Forest practices habitat conservation plan" means the habitat  
21 conservation plan that the department submitted to the United States  
22 fish and wildlife service and the national marine fisheries service in  
23 December of 2005 and approved by the services in May of 2006, as  
24 amended.

25 NEW SECTION. **Sec. 9.** Section 5 of this act takes effect if  
26 section 6 of this act is enacted into law during the regular 2014  
27 legislative session.

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