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ENGROSSED SUBSTITUTE SENATE BILL 6478

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State of Washington

63rd Legislature

2014 Regular Session

By Senate Ways & Means (originally sponsored by Senators Hill and Hargrove; by request of Department of Natural Resources and Department of Ecology)

READ FIRST TIME 02/07/14.

1 AN ACT Relating to streamlining forest and fish agreement-related  
2 programs providing funding with accountability; amending RCW 84.33.081  
3 and 84.33.0775; reenacting and amending RCW 76.09.405 and 76.09.020;  
4 and adding new sections to chapter 76.09 RCW.

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

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

8 (1) On the last business day of the second month of each calendar  
9 quarter, the state treasurer ((shall)) must distribute from the timber  
10 tax distribution account:

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

1 timber tax account (~~which shall~~) that must be established by each  
2 county. Following receipt of moneys under this section, the county  
3 treasurer (~~shall~~) must make distributions from any moneys available  
4 in the county timber tax account to taxing districts in the county,  
5 except the state, under subsections (2) through (4) of this section.

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

16 (A) Up to three million six hundred thousand dollars for the 2016  
17 fiscal year;

18 (B) Up to four million dollars for the 2017 through 2019 fiscal  
19 years;

20 (C) Up to three million five hundred thousand dollars for the 2020  
21 and 2021 fiscal years;

22 (D) Up to three million dollars for fiscal years 2022 through 2029;

23 (E) Up to one million two hundred thousand dollars for fiscal years  
24 2030 through 2040.

25 (ii) If RCW 76.09.405(3) becomes operative, those distributions to  
26 the forest and fish support account created in RCW 76.09.405 in  
27 (b)(i)(A) through (E) of this subsection must be transferred by the  
28 state treasurer to the forest landowner incentive programs account  
29 created in section 3 of this act.

30 (c)(i) For fiscal years 2016 through 2040, any tax collections in  
31 excess of the numbers provided in the schedule listed in (b)(i) of this  
32 subsection must be transferred by the state treasurer to the forest  
33 landowner incentive programs account created in section 3 of this act.

34 (ii) Beginning in fiscal year 2041, to the forest landowner  
35 incentive programs account created in section 3 of this act: The  
36 amount of tax collected on behalf of the state under RCW 84.33.041 less  
37 the amount of the distribution under subsection (7) of this section,

1 and the state's proportionate share of appropriations for collection  
2 and administration activities under RCW 84.33.041.

3 (2) From moneys available, there first (~~shall~~) must be a  
4 distribution to each taxing district having debt service payments due  
5 during the calendar year, based upon bonds issued under authority of a  
6 vote of the people conducted pursuant to RCW 84.52.056 and based upon  
7 excess levies for a capital project fund authorized pursuant to RCW  
8 84.52.053, of an amount equal to the timber assessed value of the  
9 district multiplied by the tax rate levied for payment of the debt  
10 service and capital projects(~~(:—PROVIDED, That)~~). However, in respect  
11 to levies for a debt service or capital project fund authorized before  
12 July 1, 1984, the amount allocated (~~shall~~) may not be less than an  
13 amount equal to the same percentage of such debt service or capital  
14 project fund represented by timber tax allocations to such payments in  
15 calendar year 1984. Distribution under this subsection (2) (~~shall~~)  
16 may be used only for debt service and capital projects payments. The  
17 distribution under this subsection (~~shall~~) must be made as follows:  
18 One-half of such amount (~~shall~~) must be distributed in the first  
19 quarter of the year and one-half (~~shall~~) must be distributed in the  
20 third quarter of the year.

21 (3) From the moneys remaining after the distributions under  
22 subsection (2) of this section, the county treasurer (~~shall~~) must  
23 distribute to each school district an amount equal to one-half of the  
24 timber assessed value of the district or eighty percent of the timber  
25 roll of such district in calendar year 1983 as determined under this  
26 chapter, whichever is greater, multiplied by the tax rate, if any,  
27 levied by the district under RCW 84.52.052 or 84.52.053 for purposes  
28 other than debt service payments and capital projects supported under  
29 subsection (2) of this section. The distribution under this subsection  
30 (~~shall~~) must be made as follows: One-half of such amount (~~shall~~)  
31 must be distributed in the first quarter of the year and one-half  
32 (~~shall~~) must be distributed in the third quarter of the year.

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

1 (5) If there are insufficient moneys in the county timber tax  
2 account to make full distribution under subsection (4) of this section,  
3 the county treasurer (~~shall~~) must multiply the amount to be  
4 distributed to each taxing district under that subsection by a  
5 fraction. The numerator of the fraction is the county timber tax  
6 account balance before making the distribution under that subsection.  
7 The denominator of the fraction is the account balance which would be  
8 required to make full distribution under that subsection.

9 (6) After making the distributions under subsections (2) through  
10 (4) of this section in the full amount indicated for the calendar year,  
11 the county treasurer (~~shall~~) must place any excess revenue up to  
12 twenty percent of the total distributions made for the year under  
13 subsections (2) through (4) of this section in a reserve status until  
14 the beginning of the next calendar year. Any moneys remaining in the  
15 county timber tax account after this amount is placed in reserve  
16 (~~shall~~) must be distributed to each taxing district in the county in  
17 the same proportions as the distributions made under subsection (4) of  
18 this section.

19 (7) On the last business day of the second month of each calendar  
20 quarter, the state treasurer (~~shall~~) must distribute from the timber  
21 tax distribution account to each county an amount of tax collected by  
22 the state under RCW 84.33.041 equal to the amount of any tribal tax  
23 credited against the county's tax under an agreement entered into under  
24 RCW 43.06.480.

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

27 (1) The forest and fish support account is hereby created in the  
28 state treasury. Receipts from appropriations, the surcharge imposed  
29 under RCW 82.04.261, the designated distributions from the timber tax  
30 distribution account under RCW 84.33.081, and other sources must be  
31 deposited into the account.

32 (2)(a) Except for money entering the account through a distribution  
33 from the timber tax distribution account, all expenditures from the  
34 account (~~shall~~) must be used for activities pursuant to the state's  
35 implementation of the forests and fish report as defined in this  
36 chapter and related activities including, but not limited to, adaptive

1 management, monitoring, and participation grants to tribes, state and  
2 local agencies, and not-for-profit public interest organizations.

3 (b)(i) Except as provided in (b)(ii) of this subsection, until June  
4 30, 2041, all moneys entering the account through distributions from  
5 the timber tax distribution account may only be used for conducting and  
6 completing the work identified in the cooperative monitoring,  
7 evaluation, and research work plan as adopted by the forest practices  
8 board. The annual distributions from the timber tax distribution  
9 account are based on the May 24, 2012, settlement agreement entered  
10 into by the department and the department of ecology.

11 (ii) After the close of each fiscal biennium, any moneys received  
12 in distributions from the timber tax distribution account which remain  
13 unexpended in excess of five hundred thousand dollars must be  
14 transferred by the state treasurer no later than September 30th of each  
15 year to the forest landowner incentive programs account created in  
16 section 3 of this act.

17 (iii) The department must issue a biennial report to the  
18 legislature, consistent with RCW 43.01.036, that details the receipts  
19 and distributions made under this section, the amounts used on work  
20 under the cooperative monitoring, evaluation, and research master  
21 schedule, and transfers made under (b)(ii) of this subsection.

22 (3) Distributions from the timber tax distribution account to the  
23 forest and fish support account that support endangered species act,  
24 incidental take permit, or habitat conservation plan compliance will  
25 cease and those distributions will be transferred to the forest  
26 landowner incentive programs account created in section 3 of this act  
27 six months after any of the following occur:

28 (a) The state's incidental take permit identified in RCW  
29 77.85.190(2) is terminated, revoked, or rendered ineffective by federal  
30 legislation, rule making, or by a final decision of a court of  
31 competent jurisdiction or is substantially altered outside of the  
32 adaptive management process created in RCW 76.09.370; or

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

35 (4) Distributions from the timber tax distribution account to the  
36 forest and fish support account that support clean water compliance  
37 will cease and those distributions will be transferred to the forest  
38 landowner incentive programs account created in section 3 of this act

1 six months after the following occurs: The state, the United States  
2 environmental protection agency, or a court of competent jurisdiction  
3 made a final determination that clean water act assurances are  
4 terminated, revoked, or otherwise rendered ineffective by federal,  
5 state legislation, or rule making.

6 (5) Distributions must be reinstated in the following  
7 circumstances:

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

11 (b) The forest practices board, consistent with the adaptive  
12 management process provided in RCW 76.09.370, and after consultation  
13 with appropriate federal and state agencies, tribes, and other  
14 stakeholders, requests distributions to fund specific studies and  
15 activities designed to support reinstatement of clean water assurances  
16 and the incidental take permit. Such distributions must be limited to  
17 the funds identified to complete the studies and specified activities.

18 (6) Expenditures from the account may also be used for reviews  
19 conducted by the Washington state institute for public policy described  
20 in section 5 of this act.

21 (7) Expenditures from the forest and fish support account may also  
22 be used for audits of the adaptive management program conducted by the  
23 state auditor's office. Beginning July 1, 2016, and every four years  
24 thereafter, the department must contract with the state auditor's  
25 office to conduct an audit of the department that includes the  
26 following:

27 (a) Whether the department adhered to applicable federal or state  
28 laws and regulations and the department's policies and procedures;

29 (b) Whether the records audited ensure public funds are accounted  
30 for and controls are in place to protect public resources from  
31 misappropriation and misuse; and

32 (c) An opinion on whether the statements fairly present the  
33 government's financial position and results of operations.

34 (8) Expenditures from the account may be made only after  
35 appropriation by the legislature.

36 (9) Nothing in this section affects the legislature from funding  
37 the forest practices program from other sources.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 76.09 RCW  
2 to read as follows:

3        (1) The forest landowner incentive programs account is created in  
4 the state treasury. All receipts from transfers made pursuant to RCW  
5 84.33.081 and 76.09.405 must be deposited in the account. The account  
6 is also authorized to receive fund transfers and appropriations as well  
7 as gifts, grants, and endowments from public or private sources as may  
8 be made from time to time.

9        (2) Expenditures from the account may only be used for supporting,  
10 and must be equally allocated between, the following programs:

11        (a) The forestry riparian easement program established in RCW  
12 76.13.120;

13        (b) The family forest fish passage program created pursuant to RCW  
14 76.13.150 that provides public cost assistance to small forest  
15 landowners associated with the road maintenance and abandonment  
16 processes; and

17        (c) The program for riparian open space and critical habitat  
18 created pursuant to RCW 76.09.040, beginning in fiscal year 2017.

19        (3) Moneys in the account may be spent only after appropriation by  
20 the legislature.

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

23        (1) A taxpayer is allowed a credit against the tax imposed under  
24 RCW 84.33.041 for timber harvested on and after January 1, 2000, under  
25 a forest practices notification filed or application approved under RCW  
26 76.09.050 (~~(and subject to enhanced aquatic resources requirements)~~).

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

31        (b) For a small harvester who elects to calculate tax under RCW  
32 84.33.074, the credit is equal to sixteen percent of the tax imposed  
33 under this chapter.

34        (c) The amount of credit claimed by a taxpayer under this section  
35 (~~shall~~) must be reduced by the amount of any compensation received  
36 from the federal government for reduced timber harvest due to enhanced  
37 aquatic resource requirements. If the amount of compensation from the

1 federal government exceeds the amount of credit available to a taxpayer  
2 in any reporting period, the excess (~~(shall)~~) must be carried forward  
3 and applied against credits in future reporting periods. This  
4 subsection does not apply to small harvesters (~~(as defined in RCW~~  
5 ~~84.33.073)~~).

6 (d) Refunds may not be given in place of credits. Credit may not  
7 be claimed in excess of tax owed. The department (~~(of revenue shall)~~)  
8 must disallow any credits, used or unused, upon written notification  
9 from the department of natural resources of a final decision that  
10 timber for which credit was claimed was not harvested under a forest  
11 practices notification filed or application approved under RCW  
12 76.09.050 (~~(and subject to enhanced aquatic resources requirements.~~

13 ~~(3) As used in this section, a forest practices notification or~~  
14 ~~application is subject to enhanced aquatic resource requirements if it~~  
15 ~~includes, in whole or in part, riparian area, wetland, or steep or~~  
16 ~~unstable slope from which the operator is limited, by rule adopted~~  
17 ~~under RCW 76.09.055, 34.05.090, 43.21C.250, and 76.09.370, or any~~  
18 ~~federally approved habitat conservation plan or department of natural~~  
19 ~~resources approved watershed analysis, from harvesting timber, or if a~~  
20 ~~road is included within or adjacent to the area covered by such~~  
21 ~~notification or application and the road is covered by a road~~  
22 ~~maintenance plan approved by the department of natural resources under~~  
23 ~~rules adopted under chapter 76.09 RCW, the forest practices act, or a~~  
24 ~~federally approved habitat conservation plan.~~

25 ~~(4) For forest practices notification or applications submitted~~  
26 ~~after January 1, 2000, the department of natural resources shall~~  
27 ~~indicate whether the notification or application is subject to enhanced~~  
28 ~~aquatic resource requirements and, unless notified of a contrary~~  
29 ~~determination by the pollution control hearings board, the department~~  
30 ~~of revenue shall use such indication in determining the credit to be~~  
31 ~~allowed against the tax assessed under RCW 84.33.041. The department~~  
32 ~~of natural resources shall develop revisions to the form of the forest~~  
33 ~~practices notifications and applications to provide a space for the~~  
34 ~~applicant to indicate and the department of natural resources to~~  
35 ~~confirm or not confirm, whether the notification or application is~~  
36 ~~subject to enhanced aquatic resource requirements. For forest~~  
37 ~~practices notifications or applications submitted before January 1,~~  
38 ~~2000, the applicant may submit the approved notification or application~~



1 to the department of natural resources for confirmation that the  
2 notification or application is subject to enhanced aquatic resource  
3 requirements. Upon any such submission, the department of natural  
4 resources will within thirty days confirm or deny that the notification  
5 or application is subject to enhanced aquatic resource requirements and  
6 will forward separate evidence of each confirmation to the department  
7 of revenue. Unless notified of a contrary ruling by the pollution  
8 control hearings board, the department of revenue shall use the  
9 separate confirmations in determining the credit to be allowed against  
10 the tax assessed under RCW 84.33.041.

11 (5) A refusal by the department of natural resources to confirm  
12 that a notification or application is subject to enhanced aquatic  
13 resources requirements may be appealed to the pollution control  
14 hearings board.

15 (6) A person receiving approval of credit must keep records  
16 necessary for the department of revenue to verify eligibility under  
17 this section).

18 (3) The legislature finds that the forest and fish agreement  
19 adopted by the legislature in chapter 4, Laws of 1999 1st sp. sess. has  
20 made the Washington state forest practices act the strongest in the  
21 nation, and virtually all timber harvested in Washington state under a  
22 forest practices notification or application approved have had some  
23 impact in which timber is restricted from harvest or costs to harvest  
24 and market timber have increased.

25 (4) The department of natural resources must transmit to the  
26 department forest practices notifications or applications approved  
27 under RCW 76.09.050 and, unless notified of a contrary determination by  
28 the pollution control hearings board, the department must use such  
29 indication in determining the credit to be allowed against the tax  
30 assessed under RCW 84.33.041.

31 (5) A refusal by the department of natural resources to confirm  
32 that a notification or application is a forest practices notification  
33 or application approved under RCW 76.09.050 may be appealed to the  
34 pollution control hearings board.

35 (6) A person receiving approval of credit must keep records  
36 necessary for the department to verify that a notification or  
37 application is a forest practices notification or application approved  
38 under RCW 76.09.050.

1       (7) The legislature finds that the change in the harvest credit for  
2 timber provided in this section is a measure to reduce the  
3 administrative burden on the taxpayer and the government by removing  
4 the paperwork associated with a requirement for the credit that will  
5 continue to be met by virtually all timber harvested even after the  
6 requirement is removed. This section is a government streamlining  
7 reform, does not represent a tax preference, and is not an attempt by  
8 the legislature to induce a specific performance. As such, this  
9 section is exempt from the provisions of RCW 82.32.805 and 82.32.808.

10       **NEW SECTION. Sec. 5.** A new section is added to chapter 76.09 RCW  
11 to read as follows:

12       (1) The Washington state institute for public policy must study  
13 and, if appropriate, make recommendations to the legislature related to  
14 the management, funding, transparency, efficiency, effectiveness, and  
15 overall operations of the adaptive management program at the department  
16 of natural resources.

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

21       (a) The process for prioritization, revision, inclusion, and  
22 exclusion of projects relating to cooperative monitoring, evaluation,  
23 and research by topical group; including a review of project relevancy  
24 and the existence of current research to justify recent revisions;

25       (b) The capacity and ability for the adaptive management program to  
26 implement the timelines approved by the forest practices board;  
27 including a review funding, the scientific qualifications of the  
28 participants, the research methods used, the degree to which lean  
29 process recommendations have been implemented, and the other resources  
30 available to the program;

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

34       (d) The process by which policy decisions are informed by research  
35 and research is directed by policy decisions; including potential  
36 science workloads dictated by those policy discussions;

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

3 (f) The exploration of additional contracting tools for study  
4 initiation and implementation.

5 (3) The Washington state institute for public policy is authorized  
6 to contract with consultants if specialized work is required to conduct  
7 the review required in this section. The Washington state institute  
8 for public policy is authorized to expend up to two hundred thousand  
9 dollars from the forest and fish support account created in RCW  
10 76.09.405 for the purposes of each review under subsection (4) of this  
11 section. All funds for the reviews required in subsection (4) of this  
12 section must be spent out of the forest and fish support account  
13 created in RCW 76.09.405.

14 (4) The Washington state institute for public policy must complete  
15 the initial implementation of this section by no later than July 31,  
16 2017, and must update its review every five years on a schedule  
17 consistent with the five-year review required in the forest practices  
18 habitat conservation plan. Prior to each subsequent five-year review,  
19 the forest practices board must review and if necessary, modify the  
20 issues required in the review. If RCW 76.09.405(3) (a) or (b) takes  
21 effect, no further reviews by the Washington state institute for public  
22 policy are required.

23 **Sec. 6.** RCW 76.09.020 and 2012 1st sp.s. c 1 s 212 are each  
24 reenacted and amended to read as follows:

25 The definitions in this section apply throughout this chapter  
26 unless the context clearly requires otherwise.

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

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

32 (3) "Application" means the application required pursuant to RCW  
33 76.09.050.

34 (4) "Aquatic resources" includes water quality, salmon, other  
35 species of the vertebrate classes Cephalaspidomorphi and Osteichthyes  
36 identified in the forests and fish report, the Columbia torrent  
37 salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander

1 (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton*  
2 *olympian*), the Dunn's salamander (*Plethodon dunni*), the Van Dyke's  
3 salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*), and  
4 their respective habitats.

5 (5) "Board" means the forest practices board created in RCW  
6 76.09.030.

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

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

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

14 (9) "Date of receipt" has the same meaning as defined in RCW  
15 43.21B.001.

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

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

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

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

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

27 (15) "Forest land" means all land which is capable of supporting a  
28 merchantable stand of timber and is not being actively used for a use  
29 which is incompatible with timber growing. Forest land does not  
30 include agricultural land that is or was enrolled in the conservation  
31 reserve enhancement program by contract if such agricultural land was  
32 historically used for agricultural purposes and the landowner intends  
33 to continue to use the land for agricultural purposes in the future.  
34 As it applies to the operation of the road maintenance and abandonment  
35 plan element of the forest practices rules on small forest landowners,  
36 the term "forest land" excludes:

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

1 (b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens,  
2 and the land on which appurtenances necessary to the production,  
3 preparation, or sale of crops, fruit, dairy products, fish, and  
4 livestock exist.

5 (16) "Forest landowner" means any person in actual control of  
6 forest land, whether such control is based either on legal or equitable  
7 title, or on any other interest entitling the holder to sell or  
8 otherwise dispose of any or all of the timber on such land in any  
9 manner. However, any lessee or other person in possession of forest  
10 land without legal or equitable title to such land shall be excluded  
11 from the definition of "forest landowner" unless such lessee or other  
12 person has the right to sell or otherwise dispose of any or all of the  
13 timber located on such forest land.

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

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

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

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

22 ((+d)) (iv) Reforestation;

23 ((+e)) (v) Fertilization;

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

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

26 ((+h)) (viii) Brush control.

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

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

36 (19) "Forest practices rules" means any rules adopted pursuant to  
37 RCW 76.09.040.

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

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

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

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

17 (24) "Person" means any individual, partnership, private, public,  
18 or municipal corporation, county, the department or other state or  
19 local governmental entity, or association of individuals of whatever  
20 nature.

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

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

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

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

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

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

8 (31) "Forest practices habitat conservation plan" means the habitat  
9 conservation plan that the department submitted to the United States  
10 fish and wildlife service and the national marine fisheries service in  
11 December of 2005 and approved by the services in May of 2006, as  
12 amended.

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