
SUBSTITUTE SENATE BILL 6478

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 one 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.

12 (4) The Washington state institute for public policy must complete
13 the initial implementation of this section by no later than October 31,
14 2016, and must update its review every five years on a schedule
15 consistent with the five-year review required in the forest practices
16 habitat conservation plan. Prior to each subsequent five-year review,
17 the forest practices board must review and if necessary, modify the
18 issues required in the review. If RCW 76.09.405(3) (a) or (b) takes
19 effect, no further reviews by the Washington state institute for public
20 policy are required.

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

23 The definitions in this section apply throughout this chapter
24 unless the context clearly requires otherwise.

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

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

30 (3) "Application" means the application required pursuant to RCW
31 76.09.050.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens,

1 and the land on which appurtenances necessary to the production,
2 preparation, or sale of crops, fruit, dairy products, fish, and
3 livestock exist.

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

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

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

19 ~~((b))~~ (ii) Harvesting, final and intermediate;

20 ~~((c))~~ (iii) Precommercial thinning;

21 ~~((d))~~ (iv) Reforestation;

22 ~~((e))~~ (v) Fertilization;

23 ~~((f))~~ (vi) Prevention and suppression of diseases and insects;

24 ~~((g))~~ (vii) Salvage of trees; and

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

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

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

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

37 (20) "Forest road," as it applies to the operation of the road
38 maintenance and abandonment plan element of the forest practices rules

1 on small forest landowners, means a road or road segment that crosses
2 land that meets the definition of forest land, but excludes residential
3 access roads.

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

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

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

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

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

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

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

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

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

36 (30) "Unconfined stream" means generally fifth order or larger
37 waters that experience abrupt shifts in channel location, creating a
38 complex floodplain characterized by extensive gravel bars, disturbance

1 species of vegetation of variable age, numerous side channels, wall-
2 based channels, oxbow lakes, and wetland complexes. Many of these
3 streams have dikes and levees that may temporarily or permanently
4 restrict channel movement.

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

--- END ---