
SENATE BILL 6478

State of Washington

63rd Legislature

2014 Regular Session

By Senators Hill and Hargrove; by request of Department of Natural Resources and Department of Ecology

Read first time 01/28/14. Referred to Committee on Ways & Means.

1 AN ACT Relating to streamlining forest and fish agreement-related
2 programs providing funding with accountability; amending RCW 84.33.081,
3 43.09.475, 84.33.0775, and 84.33.046; reenacting and amending RCW
4 76.09.405 and 76.09.020; adding a new section to chapter 43.09 RCW;
5 adding a new section to chapter 76.09 RCW; and providing a contingent
6 effective date.

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (ii) Beginning in fiscal year 2041, in equal parts to the
37 appropriate accounts to support the programs listed in (c)(iii) of this
38 subsection: The amount of tax collected on behalf of the state under

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

4 (iii) The following programs will receive distributions:

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

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

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

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

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

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

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

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

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

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

36 (7) On the last business day of the second month of each calendar
37 quarter, the state treasurer (~~shall~~) must distribute from the timber
38 tax distribution account to each county an amount of tax collected by

1 the state under RCW 84.33.041 equal to the amount of any tribal tax
2 credited against the county's tax under an agreement entered into under
3 RCW 43.06.480.

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

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

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

18 (b)(i) Except as provided in (b)(ii) of this subsection, until June
19 30, 2041, all moneys entering the account through distributions from
20 the timber tax distribution account may only be used for conducting and
21 completing the work identified in the cooperative monitoring,
22 evaluation, and research work plan as adopted by the forest practices
23 board. The annual distributions from the timber tax distribution
24 account are based on the May 24, 2012, settlement agreement entered
25 into by the department and the department of ecology.

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

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

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

7 (a) The state's incidental take permit identified in RCW
8 77.85.190(2) is terminated, revoked, or rendered ineffective by federal
9 legislation, rule making, or by a final decision of a court of
10 competent jurisdiction or is substantially altered outside of the
11 adaptive management process created in RCW 76.09.370; or

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

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

23 (5) Distributions must be reinstated in the following
24 circumstances:

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

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

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

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

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

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

7 The performance audits of government account is hereby created in
8 the custody of the state treasurer. Revenue identified in RCW
9 82.08.020(5) (~~and~~), 82.12.0201 (~~shall~~), and 84.33.081 must be
10 deposited in the account. Money in the account (~~shall~~) must be used
11 to fund the implementation of section 4 of this act, performance
12 audits, and follow-up performance audits under RCW 43.09.470 and
13 (~~shall~~) must be expended by the state auditor in accordance with
14 chapter 1, Laws of 2006. Only the state auditor or the state auditor's
15 designee may authorize expenditures from the account. The account is
16 subject to allotment procedures under chapter 43.88 RCW, but an
17 appropriation is not required for expenditures. During the 2011-2013
18 and the 2013-2015 fiscal biennia, the performance audits of government
19 account may be appropriated for fraud investigations in the state
20 auditor's office and the department of social and health services,
21 audit and collection functions in the department of revenue, the joint
22 legislative audit and review committee, the office of financial
23 management, the superintendent of public instruction and audits of
24 school districts. In addition, during the 2011-2013 and 2013-2015
25 fiscal biennia the account may be used to fund the office of financial
26 management's contract for the compliance audit of the state auditor.

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

29 The state auditor must, in each fiscal biennium that the
30 performance audits of government account receives distributions from
31 the timber tax distribution account under RCW 84.33.081, conduct a
32 fiscal audit of the department of natural resources' compliance with
33 the requirements of RCW 76.09.405(2). Each audit performed under this
34 section must include all previous biennia since the most recent past
35 audit.

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

3 (1) A taxpayer is allowed a credit against the tax imposed under
4 RCW 84.33.041 for timber harvested (~~(on and after)~~) between January 1,
5 2000, and June 30, 2015, under a forest practices notification filed or
6 application approved under RCW 76.09.050 and subject to enhanced
7 aquatic resources requirements.

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

12 (b) For a small harvester who elects to calculate tax under RCW
13 84.33.074, the credit is equal to sixteen percent of the tax imposed
14 under this chapter.

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

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

31 (3) As used in this section, a forest practices notification or
32 application is subject to enhanced aquatic resource requirements if it
33 includes, in whole or in part, riparian area, wetland, or steep or
34 unstable slope from which the operator is limited, by rule adopted
35 under RCW 76.09.055, 34.05.090, 43.21C.250, and 76.09.370, or any
36 federally approved habitat conservation plan or department of natural
37 resources approved watershed analysis, from harvesting timber, or if a
38 road is included within or adjacent to the area covered by such

1 notification or application and the road is covered by a road
2 maintenance plan approved by the department of natural resources under
3 rules adopted under chapter 76.09 RCW, the forest practices act, or a
4 federally approved habitat conservation plan.

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

29 (5) A refusal by the department of natural resources to confirm
30 that a notification or application is subject to enhanced aquatic
31 resources requirements may be appealed to the pollution control
32 hearings board.

33 (6) A person receiving approval of credit must keep records
34 necessary for the department (~~of revenue~~) to verify eligibility under
35 this section.

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

1 (1) The rate of tax imposed under RCW 84.33.041 for timber
2 harvested between July 1, 1988, and ((thereafter, shall be)) June 30,
3 2015, is five percent.

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

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

19 NEW SECTION. Sec. 7. A new section is added to chapter 76.09 RCW
20 to read as follows:

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

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

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

34 (b) The capacity and ability for the adaptive management program to
35 implement the timelines approved by the forest practices board;
36 including a review funding, the scientific qualifications of the

1 participants, the research methods used, the degree to which lean
2 process recommendations have been implemented, and the other resources
3 available to the program;

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

7 (d) The process by which policy decisions are informed by research
8 and research is directed by policy decisions; including potential
9 science workloads dictated by those policy discussions;

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

12 (f) The exploration of additional contracting tools for study
13 initiation and implementation.

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

21 (4) The Washington state institute for public policy must complete
22 the initial implementation of this section by no later than October 31,
23 2016, and must update its review every five years on a schedule
24 consistent with the five-year review required in the forest practices
25 habitat conservation plan. Prior to each subsequent five-year review,
26 the forest practices board must review and if necessary, modify the
27 issues required in the review. If RCW 76.09.405(3) (a) or (b) takes
28 effect, no further reviews by the Washington state institute for public
29 policy are required.

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

32 The definitions in this section apply throughout this chapter
33 unless the context clearly requires otherwise.

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

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

3 (3) "Application" means the application required pursuant to RCW
4 76.09.050.

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

13 (5) "Board" means the forest practices board created in RCW
14 76.09.030.

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

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

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

22 (9) "Date of receipt" has the same meaning as defined in RCW
23 43.21B.001.

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

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

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

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

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

35 (15) "Forest land" means all land which is capable of supporting a
36 merchantable stand of timber and is not being actively used for a use
37 which is incompatible with timber growing. Forest land does not
38 include agricultural land that is or was enrolled in the conservation

1 reserve enhancement program by contract if such agricultural land was
2 historically used for agricultural purposes and the landowner intends
3 to continue to use the land for agricultural purposes in the future.
4 As it applies to the operation of the road maintenance and abandonment
5 plan element of the forest practices rules on small forest landowners,
6 the term "forest land" excludes:

- 7 (a) Residential home sites, which may include up to five acres; and
- 8 (b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens,
9 and the land on which appurtenances necessary to the production,
10 preparation, or sale of crops, fruit, dairy products, fish, and
11 livestock exist.

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

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

- 24 ((+a)) (i) Road and trail construction, including forest practices
25 hydraulic projects that include water crossing structures, and
26 associated activities and maintenance;
- 27 ((+b)) (ii) Harvesting, final and intermediate;
- 28 ((+c)) (iii) Precommercial thinning;
- 29 ((+d)) (iv) Reforestation;
- 30 ((+e)) (v) Fertilization;
- 31 ((+f)) (vi) Prevention and suppression of diseases and insects;
- 32 ((+g)) (vii) Salvage of trees; and
- 33 ((+h)) (viii) Brush control.

34 (b) "Forest practice" (~~shall~~) does not include preparatory work
35 such as tree marking, surveying and road flagging, and removal or
36 harvesting of incidental vegetation from forest lands such as berries,
37 ferns, greenery, mistletoe, herbs, mushrooms, and other products which

1 cannot normally be expected to result in damage to forest soils,
2 timber, or public resources.

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

6 (19) "Forest practices rules" means any rules adopted pursuant to
7 RCW 76.09.040.

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

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

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

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

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

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

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

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

37 (28) "Timber owner" means any person having all or any part of the

1 legal interest in timber. Where such timber is subject to a contract
2 of sale, "timber owner" (~~shall~~) means the contract purchaser.

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

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

15 (31) "Forest practices habitat conservation plan" means the habitat
16 conservation plan that the department submitted to the United States
17 fish and wildlife service and the national marine fisheries service in
18 December of 2005 and approved by the services in May of 2006, as
19 amended.

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

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