
SUBSTITUTE HOUSE BILL 2658

State of Washington

64th Legislature

2016 Regular Session

By House Community Development, Housing & Tribal Affairs (originally sponsored by Representatives Ortiz-Self, Ryu, S. Hunt, Stanford, and Reykdal)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to tribal cultural resources protection in the
2 forest practices act; amending RCW 76.09.010, 76.09.060, 76.09.080,
3 76.09.090, and 42.56.300; reenacting and amending RCW 76.09.020; and
4 adding a new section to chapter 76.09 RCW.

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

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

8 (1) The legislature declares and recognizes the importance of
9 tribal cultural resources protection and intends to reinforce the
10 obligations and commitments of the state made to tribal governments
11 in the 1987 Washington state timber, fish, and wildlife agreement,
12 the 1999 forests and fish report, and the cultural resource
13 protection and management plans adopted by the participating caucuses
14 of the timber, fish, and wildlife cultural resources roundtable.

15 (2) In order to assist in the fulfillment of the state's
16 commitments to tribal cultural resources protection, the legislature
17 recognizes that the department requires that a landowner must meet
18 with a tribe upon the tribe's request and to incorporate into the
19 application operational elements of protection that have been agreed
20 upon between the landowner and the tribe.

1 (3) The legislature further recognizes that by incorporating the
2 operational elements of the landowner and tribal agreement into the
3 application, the department has enforcement authority over those
4 conditions.

5 **Sec. 2.** RCW 76.09.010 and 2010 c 188 s 3 are each amended to
6 read as follows:

7 (1) The legislature hereby finds and declares that the forest
8 land resources are among the most valuable of all resources in the
9 state; that a viable forest products industry is of prime importance
10 to the state's economy; that it is in the public interest for public
11 and private commercial forest lands to be managed consistent with
12 sound policies of natural resource protection; that coincident with
13 maintenance of a viable forest products industry, it is important to
14 afford protection to forest soils, fisheries, wildlife, water
15 quantity and quality, air quality, recreation, tribal cultural
16 resources, and scenic beauty.

17 (2) The legislature further finds and declares it to be in the
18 public interest of this state to create and maintain through the
19 adoption of this chapter a comprehensive statewide system of laws and
20 forest practices rules which will achieve the following purposes and
21 policies:

22 (a) Afford protection to, promote, foster and encourage timber
23 growth, and require such minimum reforestation of commercial tree
24 species on forest lands as will reasonably utilize the timber growing
25 capacity of the soil following current timber harvest;

26 (b) Afford protection to forest soils (~~and~~), public resources,
27 and tribal cultural resources by utilizing all reasonable methods of
28 technology in conducting forest practices;

29 (c) Recognize both the public and private interest in the
30 profitable growing and harvesting of timber;

31 (d) Promote efficiency by permitting maximum operating freedom
32 consistent with the other purposes and policies stated herein;

33 (e) Provide for regulation of forest practices so as to avoid
34 unnecessary duplication in such rules;

35 (f) Provide for interagency input and intergovernmental and
36 tribal coordination and cooperation;

37 (g) Achieve compliance with all applicable requirements of
38 federal and state law with respect to nonpoint sources of water
39 pollution from forest practices;

1 (h) To consider reasonable land use planning goals and concepts
2 contained in local comprehensive plans and zoning regulations;

3 (i) Foster cooperation among managers of public resources, forest
4 landowners, Indian tribes and the citizens of the state;

5 (j) Develop a watershed analysis system that addresses the
6 cumulative effect of forest practices on, at a minimum, the public
7 resources of fish, water, tribal cultural resources, and public
8 capital improvements of the state and its political subdivisions; and

9 (k) Assist forest landowners in accessing market capital and
10 financing for the ecosystem services provided to the public as a
11 result of the protection of public resources.

12 (3) The legislature further finds and declares that it is also in
13 the public interest of the state to encourage forest landowners to
14 undertake corrective and remedial action to reduce the impact of mass
15 earth movements and fluvial processes.

16 (4) The legislature further finds and declares that it is in the
17 public interest that the applicants for state forest practices
18 permits should assist in paying for the cost of review and permitting
19 necessary for the environmental protection of these resources.

20 **Sec. 3.** RCW 76.09.020 and 2012 1st sp.s. c 1 s 212 are each
21 reenacted and amended to read as follows:

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

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

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

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

31 (4) "Aquatic resources" includes water quality, salmon, other
32 species of the vertebrate classes Cephalaspidomorphi and Osteichthyes
33 identified in the forests and fish report, the Columbia torrent
34 salamander (*Rhyacotriton kezeri*), the Cascade torrent salamander
35 (*Rhyacotriton cascadae*), the Olympic torrent salamander (*Rhyacotriton*
36 *olympian*), the Dunn's salamander (*Plethodon dunnii*), the Van Dyke's
37 salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus truei*), and
38 their respective habitats.

1 (5) "Board" means the forest practices board created in RCW
2 76.09.030.

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

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

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

10 (9) "Date of receipt" has the same meaning as defined in RCW
11 43.21B.001.

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

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

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

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

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

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

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

36 (b) Cropfields, orchards, vineyards, pastures, feedlots, fish
37 pens, and the land on which appurtenances necessary to the
38 production, preparation, or sale of crops, fruit, dairy products,
39 fish, and livestock exist.

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

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

13 (a) Road and trail construction, including forest practices
14 hydraulic projects that include water crossing structures, and
15 associated activities and maintenance;

16 (b) Harvesting, final and intermediate;

17 (c) Precommercial thinning;

18 (d) Reforestation;

19 (e) Fertilization;

20 (f) Prevention and suppression of diseases and insects;

21 (g) Salvage of trees; and

22 (h) Brush control.

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

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

32 (19) "Forest practices rules" means any rules adopted pursuant to
33 RCW 76.09.040.

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

39 (21) "Forest trees" does not include hardwood trees cultivated by
40 agricultural methods in growing cycles shorter than fifteen years if

1 the trees were planted on land that was not in forest use immediately
2 before the trees were planted and before the land was prepared for
3 planting the trees. "Forest trees" includes Christmas trees, but does
4 not include Christmas trees that are cultivated by agricultural
5 methods, as that term is defined in RCW 84.33.035.

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

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

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

14 (25) "Public resources" means water, fish and wildlife, and in
15 addition shall mean capital improvements of the state or its
16 political subdivisions.

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

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

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

26 (29) "Tribal cultural resources" means the ancient and spiritual,
27 present and future cultural materials, objects, or sites that are
28 significant to and perpetuate the living culture and history of
29 federally recognized tribes as identified by the tribe.

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

35 ((+30+)) (31) "Unconfined stream" means generally fifth order or
36 larger waters that experience abrupt shifts in channel location,
37 creating a complex floodplain characterized by extensive gravel bars,
38 disturbance species of vegetation of variable age, numerous side
39 channels, wall-based channels, oxbow lakes, and wetland complexes.

1 Many of these streams have dikes and levees that may temporarily or
2 permanently restrict channel movement.

3 **Sec. 4.** RCW 76.09.060 and 2012 1st sp.s. c 1 s 206 are each
4 amended to read as follows:

5 (1) The department shall prescribe the form and contents of the
6 notification and application. The forest practices rules shall
7 specify by whom and under what conditions the notification and
8 application shall be signed or otherwise certified as acceptable.
9 Activities conducted by the department or a contractor under the
10 direction of the department under the provisions of RCW 76.04.660,
11 shall be exempt from the landowner signature requirement on any
12 forest practices application required to be filed. The application or
13 notification shall be delivered in person to the department, sent by
14 first-class mail to the department or electronically filed in a form
15 defined by the department. The form for electronic filing shall be
16 readily convertible to a paper copy, which shall be available to the
17 public pursuant to chapter 42.56 RCW. The information required may
18 include, but is not limited to:

19 (a) Name and address of the forest landowner, timber owner, and
20 operator;

21 (b) Description of the proposed forest practice or practices to
22 be conducted;

23 (c) Legal description and tax parcel identification numbers of
24 the land on which the forest practices are to be conducted;

25 (d) Planimetric and topographic maps showing location and size of
26 all lakes and streams and other public waters in and immediately
27 adjacent to the operating area and showing all existing and proposed
28 roads and major tractor roads;

29 (e) Description of the silvicultural, harvesting, or other forest
30 practice methods to be used, including the type of equipment to be
31 used and materials to be applied;

32 (f) For an application or notification submitted on or after July
33 10, 2012, that includes a forest practices hydraulic project, plans
34 and specifications for the forest practices hydraulic project to
35 ensure the proper protection of fish life;

36 (g) Proposed plan for reforestation and for any revegetation
37 necessary to reduce erosion potential from roadsides and yarding
38 roads, as required by the forest practices rules;

1 (h) Soil, geological, and hydrological data with respect to
2 forest practices;

3 (i) The expected dates of commencement and completion of all
4 forest practices specified in the application;

5 (j) Provisions for continuing maintenance of roads and other
6 construction or other measures necessary to afford protection to
7 public resources;

8 (k) An affirmation that the statements contained in the
9 notification or application are true; and

10 (l) All necessary application or notification fees.

11 (2) Long range plans may be submitted to the department for
12 review and consultation.

13 (3) The application for a forest practice or the notification of
14 a forest practice is subject to the reforestation requirement of RCW
15 76.09.070.

16 (a) If the application states that any land will be or is
17 intended to be converted:

18 (i) The reforestation requirements of this chapter and of the
19 forest practices rules shall not apply if the land is in fact
20 converted unless applicable alternatives or limitations are provided
21 in forest practices rules issued under RCW 76.09.070;

22 (ii) Completion of such forest practice operations shall be
23 deemed conversion of the lands to another use for purposes of
24 chapters 84.33 and 84.34 RCW unless the conversion is to a use
25 permitted under a current use tax agreement permitted under chapter
26 84.34 RCW;

27 (iii) The forest practices described in the application are
28 subject to applicable county, city, town, and regional governmental
29 authority permitted under RCW 76.09.240 as well as the forest
30 practices rules.

31 (b) Except as provided elsewhere in this section, if the
32 landowner harvests without an approved application or notification or
33 the landowner does not state that any land covered by the application
34 or notification will be or is intended to be converted, and the
35 department or the county, city, town, or regional governmental entity
36 becomes aware of conversion activities to a use other than commercial
37 timber operations, as that term is defined in RCW 76.09.020, then the
38 department shall send to the department of ecology and the
39 appropriate county, city, town, and regional governmental entities
40 the following documents:

1 (i) A notice of a conversion to nonforestry use;

2 (ii) A copy of the applicable forest practices application or
3 notification, if any; and

4 (iii) Copies of any applicable outstanding final orders or
5 decisions issued by the department related to the forest practices
6 application or notification.

7 (c) Failure to comply with the reforestation requirements
8 contained in any final order or decision shall constitute a removal
9 of designation under the provisions of RCW 84.33.140, and a change of
10 use under the provisions of RCW 84.34.080, and, if applicable, shall
11 subject such lands to the payments and/or penalties resulting from
12 such removals or changes.

13 (d) Conversion to a use other than commercial forest product
14 operations within six years after approval of the forest practices
15 application or notification without the consent of the county, city,
16 or town shall constitute a violation of each of the county, municipal
17 city, town, and regional authorities to which the forest practice
18 operations would have been subject if the application had stated an
19 intent to convert.

20 (e) Land that is the subject of a notice of conversion to a
21 nonforestry use produced by the department and sent to the department
22 of ecology and a local government under this subsection is subject to
23 the development prohibition and conditions provided in RCW 76.09.460.

24 (f) Landowners who have not stated an intent to convert the land
25 covered by an application or notification and who decide to convert
26 the land to a nonforestry use within six years of receiving an
27 approved application or notification must do so in a manner
28 consistent with RCW 76.09.470.

29 (g) The application or notification must include a statement
30 requiring an acknowledgment by the forest landowner of his or her
31 intent with respect to conversion and acknowledging that he or she is
32 familiar with the effects of this subsection.

33 (4) Whenever an approved application authorizes a forest practice
34 which, because of soil condition, proximity to a water course or
35 other unusual factor, has a potential for causing material damage to
36 a public resource, as determined by the department, the applicant
37 shall, when requested on the approved application, notify the
38 department two days before the commencement of actual operations.

39 (5) Before the operator commences any forest practice in a manner
40 or to an extent significantly different from that described in a

1 previously approved application or notification, there shall be
2 submitted to the department a new application or notification form in
3 the manner set forth in this section.

4 (6)(a) Except as provided in RCW 76.09.350(4), the notification
5 to or the approval given by the department to an application to
6 conduct a forest practice shall be effective for a term of three
7 years from the date of approval or notification.

8 (b) A notification or application may be renewed for an
9 additional three-year term by the filing and approval of a
10 notification or application, as applicable, prior to the expiration
11 of the original application or notification. A renewal application or
12 notification is subject to the forest practices rules in effect at
13 the time the renewal application or notification is filed. Nothing in
14 this section precludes the applicant from applying for a new
15 application or notification after the renewal period has lapsed.

16 (c) At the option of the applicant, an application or
17 notification may be submitted to cover a single forest practice or a
18 number of forest practices within reasonable geographic or political
19 boundaries as specified by the department. An application or
20 notification that covers more than one forest practice may have an
21 effective term of more than three years.

22 (d) The board shall adopt rules that establish standards and
23 procedures for approving an application or notification that has an
24 effective term of more than three years. Such rules shall include
25 extended time periods for application or notification approval or
26 disapproval. The department may require the applicant to provide
27 advance notice before commencing operations on an approved
28 application or notification.

29 (7) Notwithstanding any other provision of this section, no prior
30 application or notification shall be required for any emergency
31 forest practice necessitated by fire, flood, windstorm, earthquake,
32 or other emergency as defined by the board, but the operator shall
33 submit an application or notification, whichever is applicable, to
34 the department within forty-eight hours after commencement of such
35 practice or as required by local regulations.

36 (8) Forest practices applications or notifications are not
37 required for forest practices conducted to control exotic forest
38 insect or disease outbreaks, when conducted by or under the direction
39 of the department of agriculture in carrying out an order of the
40 governor or director of the department of agriculture to implement

1 pest control measures as authorized under chapter 17.24 RCW, and are
2 not required when conducted by or under the direction of the
3 department in carrying out emergency measures under a forest health
4 emergency declaration by the commissioner of public lands as provided
5 in RCW 76.06.130.

6 (a) For the purposes of this subsection, exotic forest insect or
7 disease has the same meaning as defined in RCW 76.06.020.

8 (b) In order to minimize adverse impacts to public resources,
9 control measures must be based on integrated pest management, as
10 defined in RCW 17.15.010, and must follow forest practices rules
11 relating to road construction and maintenance, timber harvest, and
12 forest chemicals, to the extent possible without compromising control
13 objectives.

14 (c) Agencies conducting or directing control efforts must provide
15 advance notice to the appropriate regulatory staff of the department
16 of the operations that would be subject to exemption from forest
17 practices application or notification requirements.

18 (d) When the appropriate regulatory staff of the department are
19 notified under (c) of this subsection, they must consult with the
20 landowner, interested agencies, and affected tribes, and assist the
21 notifying agencies in the development of integrated pest management
22 plans that comply with forest practices rules as required under (b)
23 of this subsection.

24 (e) Nothing under this subsection relieves agencies conducting or
25 directing control efforts from requirements of the federal clean
26 water act as administered by the department of ecology under RCW
27 90.48.260.

28 (f) Forest lands where trees have been cut as part of an exotic
29 forest insect or disease control effort under this subsection are
30 subject to reforestation requirements under RCW 76.09.070.

31 (g) The exemption from obtaining approved forest practices
32 applications or notifications does not apply to forest practices
33 conducted after the governor, the director of the department of
34 agriculture, or the commissioner of public lands have declared that
35 an emergency no longer exists because control objectives have been
36 met, that there is no longer an imminent threat, or that there is no
37 longer a good likelihood of control.

38 (9) A forest practice is subject to the operational elements of
39 protection that have been agreed upon between the landowner and the
40 tribe.

1 **Sec. 5.** RCW 76.09.080 and 2010 c 210 s 21 are each amended to
2 read as follows:

3 (1) The department shall have the authority to serve upon an
4 operator a stop work order which shall be a final order of the
5 department if:

6 (a) There is any violation of the provisions of this chapter or
7 the forest practices regulations; or

8 (b) There is a deviation from the approved application; or

9 (c) Immediate action is necessary to prevent continuation of or
10 to avoid material damage to a public resource; or

11 (d) Immediate action is necessary to cease disturbance of or to
12 protect the area containing tribal cultural resources.

13 (2) The stop work order shall set forth:

14 (a) The specific nature, extent, and time of the violation,
15 deviation, damage, or potential damage;

16 (b) An order to stop all work connected with the violation,
17 deviation, damage, or potential damage;

18 (c) The specific course of action needed to correct such
19 violation or deviation or to prevent damage and to correct and/or
20 compensate for damage to public resources which has resulted from any
21 violation, unauthorized deviation, or willful or negligent disregard
22 for potential damage to a public resource; and/or those courses of
23 action necessary to prevent continuing damage to public resources
24 where the damage is resulting from the forest practice activities but
25 has not resulted from any violation, unauthorized deviation, or
26 negligence; (~~and~~)

27 (d)(i) The specific course of action needed to enforce the
28 operational elements of any plan between a landowner and tribe that
29 resulted from the required meetings between a tribe and landowner
30 under RCW 76.09.060(9) to the extent necessary to protect tribal
31 cultural resources;

32 (ii) The department's authority under this subsection is limited
33 to enforcement of the operational elements of a written agreement
34 that are shared with the department by the landowner or the tribe;
35 and

36 (e) The right of the operator to a hearing before the appeals
37 board.

38 The department shall immediately file a copy of such order with
39 the appeals board and mail a copy thereof to the timber owner and
40 forest land owner at the addresses shown on the application. The

1 operator, timber owner, or forest land owner may commence an appeal
2 to the appeals board within thirty days from the date of receipt of
3 the order by the operator. If such appeal is commenced, a hearing
4 shall be held not more than twenty days after copies of the notice of
5 appeal were filed with the appeals board. Such proceeding shall be an
6 adjudicative proceeding within the meaning of chapter 34.05 RCW, the
7 administrative procedure act. The operator shall comply with the
8 order of the department immediately upon being served, but the
9 appeals board if requested shall have authority to continue or
10 discontinue in whole or in part the order of the department under
11 such conditions as it may impose pending the outcome of the
12 proceeding.

13 **Sec. 6.** RCW 76.09.090 and 2010 c 210 s 22 are each amended to
14 read as follows:

15 If a violation, a deviation, material damage or potential for
16 material damage to a public resource or a violation or deviation of
17 the operational elements of a landowner and tribal plan to protect
18 tribal cultural resource has occurred and the department determines
19 that a stop work order is unnecessary, then the department shall
20 issue and serve upon the operator or land owner a notice, which shall
21 clearly set forth:

22 (1)(a) The specific nature, extent, and time of failure to comply
23 with the approved application; or identifying the damage or potential
24 damage; and/or

25 (b) The relevant provisions of this chapter or of the forest
26 practice regulations relating thereto;

27 (2) The right of the operator or land owner to a hearing before
28 the department; and

29 (3) The specific course of action ordered by the department to be
30 followed by the operator to protect the area containing tribal
31 cultural resources and enforce the operational elements of the
32 landowner and tribe plan that resulted from the required meetings
33 under RCW 76.09.060(9) or to correct such failure to comply and to
34 prevent, correct and/or compensate for material damage to public
35 resources which resulted from any violation, unauthorized deviation,
36 or willful or negligent disregard for potential damage to a public
37 resource; and/or those courses of action necessary to prevent
38 continuing damage to public resources where the damage is resulting

1 from the forest practice activities but has not resulted from any
2 violation, unauthorized deviation, or negligence.

3 The department shall mail a copy thereof to the forest land owner
4 and the timber owner at the addresses shown on the application,
5 showing the date of service upon the operator. Such notice to comply
6 shall become a final order of the department: PROVIDED, That no
7 direct appeal to the appeals board will be allowed from such final
8 order. Such operator shall undertake the course of action so ordered
9 by the department unless, within fifteen days after the date of
10 service of such notice to comply, the operator, forest land owner, or
11 timber owner, shall request the department in writing to schedule a
12 hearing. If so requested, the department shall schedule a hearing on
13 a date not more than twenty days after receiving such request. Within
14 ten days after such hearing, the department shall issue a final order
15 either withdrawing its notice to comply or clearly setting forth the
16 specific course of action to be followed by such operator. Such
17 operator shall undertake the course of action so ordered by the
18 department unless within thirty days after the date of receipt of
19 such final order, the operator, forest land owner, or timber owner
20 appeals such final order to the appeals board.

21 No person shall be under any obligation under this section to
22 prevent, correct, or compensate for any damage to public resources
23 which occurs more than one year after the date of completion of the
24 forest practices operations involved exclusive of reforestation,
25 unless such forest practices were not conducted in accordance with
26 forest practices rules and regulations: PROVIDED, That this provision
27 shall not relieve the forest land owner from any obligation to comply
28 with forest practices rules and regulations pertaining to providing
29 continuing road maintenance. No action to recover damages shall be
30 taken under this section more than two years after the date the
31 damage involved occurs.

32 **Sec. 7.** RCW 42.56.300 and 2014 c 165 s 1 are each amended to
33 read as follows:

34 (1) Records, maps, or other information identifying the location
35 of archaeological sites in order to avoid the looting or depredation
36 of such sites are exempt from disclosure under this chapter.

37 (2) Records, maps, and other information, acquired (~~during~~
38 ~~watershed analysis pursuant to the forests and fish report~~) under
39 (~~(RCW 76.09.370)~~) chapter 76.09 RCW, that identify the location of

1 archaeological sites, historic sites, artifacts, or the sites of
2 traditional religious, ceremonial, or social uses and activities of
3 affected Indian tribes, are exempt from disclosure under this chapter
4 in order to prevent the looting or depredation of such sites.

5 (3) Any site form, report, specific fields and tables relating to
6 site form data within a database, or geographic information systems
7 spatial layer obtained by any state agency or local government, or
8 shared between any state agency, local government, or tribal
9 government, is exempt from disclosure under this chapter, if the
10 material is related to:

11 (a) An archaeological site as defined in RCW 27.53.030;

12 (b) (~~Historical~~[~~Historic~~]) Historic archaeological resources
13 as defined in RCW 27.53.030; or

14 (c) Traditional cultural places.

15 (4) The local government or agency shall respond to requests from
16 the owner of the real property for public records exempt under
17 subsection (1), (2), or (3) of this section by providing information
18 to the requestor on how to contact the department of archaeology and
19 historic preservation to obtain available locality information on
20 archaeological and cultural resources.

--- END ---