

**SSB 6488** - H COMM AMD

By Committee on Rural Development, Agriculture, & Natural Resources

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature, through the enactment of  
4 Substitute Senate Bill No. 5597 (chapter 355, Laws of 2019), created  
5 the work group on aerial application of herbicides on state and  
6 private forestlands and directed a report back to the legislature  
7 with recommendations for any improvements to best management  
8 practices in herbicide application and nonchemical alternatives in  
9 vegetation management. The legislature intends by this act to adopt  
10 several of those recommendations.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.30  
12 RCW under the subchapter heading "part 5 powers and duties - general"  
13 to read as follows:

14 (1) The department, subject to the availability of amounts  
15 appropriated for this specific purpose, must evaluate and conduct  
16 research trials of chemical and nonchemical forest vegetation  
17 management strategies, in a manner that does not disadvantage the  
18 trust beneficiaries, and collaborate with other forestland owners  
19 through coordination with leading forestry research cooperatives and  
20 universities in the Pacific Northwest.

21 (2) This section expires June 30, 2030.

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

24 (1) The board shall develop interpretive guidance in the forest  
25 practices board manual to clarify the adjacent property buffer  
26 requirements in the forest practices rules, including provisions for  
27 the board manual that explain the buffer rules for the protection of  
28 private property, including adjacent residential and agricultural  
29 properties. The board must also use a stakeholder process to update  
30 the forest practices board manual, as provided in WAC 222-12-090 as

1 it existed on January 1, 2020, to include best management practices  
2 and technical guidance related to the aerial application of  
3 herbicides consistent with forest practices rules including, but not  
4 limited to, equipment, weather conditions, communicating best  
5 management practices to neighbors, signage, and as appropriate,  
6 information about alternatives to herbicides. The forest practices  
7 board manual updates must be completed by November 1, 2021.

8 (2) The board must improve the aerial herbicide application  
9 signage information included in the forest practices board manual and  
10 provide a sign template that satisfies the legal posting  
11 requirements. The board must also update the board manual to reflect  
12 that emergency contact information may be included on the signage.  
13 The department must add these elements to the forest practices  
14 illustrated guidance document.

15 (3) The board must integrate evaluation of forest practices  
16 aerial applications of herbicide into the 2021-2023 biennial forest  
17 practices compliance monitoring sampling conducted pursuant to WAC  
18 222-08-160, as it existed on the effective date of this section.

19 (4) This section expires December 31, 2021.

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

22 (1) The department shall prescribe the form and contents of the  
23 notification and application. The forest practices rules shall  
24 specify by whom and under what conditions the notification and  
25 application shall be signed or otherwise certified as acceptable.  
26 Activities conducted by the department or a contractor under the  
27 direction of the department under the provisions of RCW 76.04.660,  
28 shall be exempt from the landowner signature requirement on any  
29 forest practices application required to be filed. The application or  
30 notification shall be delivered in person to the department, sent by  
31 first-class mail to the department or electronically filed in a form  
32 defined by the department. The form for electronic filing shall be  
33 readily convertible to a paper copy, which shall be available to the  
34 public pursuant to chapter 42.56 RCW, including through electronic  
35 access in the form of a readily available link on the department's  
36 web site. The information required may include, but is not limited  
37 to:

38 (a) Name and address of the forestland owner, timber owner, and  
39 operator;

- 1 (b) Description of the proposed forest practice or practices to  
2 be conducted;
- 3 (c) Legal description and tax parcel identification numbers of  
4 the land on which the forest practices are to be conducted;
- 5 (d) Planimetric and topographic maps showing location and size of  
6 all lakes and streams and other public waters in and immediately  
7 adjacent to the operating area and showing all existing and proposed  
8 roads and major tractor roads;
- 9 (e) Description of the silvicultural, harvesting, or other forest  
10 practice methods to be used, including the type of equipment to be  
11 used and materials to be applied;
- 12 (f) For an application or notification submitted on or after July  
13 10, 2012, that includes a forest practices hydraulic project, plans  
14 and specifications for the forest practices hydraulic project to  
15 ensure the proper protection of fish life;
- 16 (g) Proposed plan for reforestation and for any revegetation  
17 necessary to reduce erosion potential from roadsides and yarding  
18 roads, as required by the forest practices rules;
- 19 (h) Soil, geological, and hydrological data with respect to  
20 forest practices;
- 21 (i) The expected dates of commencement and completion of all  
22 forest practices specified in the application;
- 23 (j) Provisions for continuing maintenance of roads and other  
24 construction or other measures necessary to afford protection to  
25 public resources;
- 26 (k) An affirmation that the statements contained in the  
27 notification or application are true; and
- 28 (l) All necessary application or notification fees.
- 29 (2) Long range plans may be submitted to the department for  
30 review and consultation.
- 31 (3) The application for a forest practice or the notification of  
32 a forest practice is subject to the reforestation requirement of RCW  
33 76.09.070.
- 34 (a) If the application states that any land will be or is  
35 intended to be converted:
- 36 (i) The reforestation requirements of this chapter and of the  
37 forest practices rules shall not apply if the land is in fact  
38 converted unless applicable alternatives or limitations are provided  
39 in forest practices rules issued under RCW 76.09.070;

1 (ii) Completion of such forest practice operations shall be  
2 deemed conversion of the lands to another use for purposes of  
3 chapters 84.33 and 84.34 RCW unless the conversion is to a use  
4 permitted under a current use tax agreement permitted under chapter  
5 84.34 RCW;

6 (iii) The forest practices described in the application are  
7 subject to applicable county, city, town, and regional governmental  
8 authority permitted under RCW 76.09.240 as well as the forest  
9 practices rules.

10 (b) Except as provided elsewhere in this section, if the  
11 landowner harvests without an approved application or notification or  
12 the landowner does not state that any land covered by the application  
13 or notification will be or is intended to be converted, and the  
14 department or the county, city, town, or regional governmental entity  
15 becomes aware of conversion activities to a use other than commercial  
16 timber operations, as that term is defined in RCW 76.09.020, then the  
17 department shall send to the department of ecology and the  
18 appropriate county, city, town, and regional governmental entities  
19 the following documents:

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

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

23 (iii) Copies of any applicable outstanding final orders or  
24 decisions issued by the department related to the forest practices  
25 application or notification.

26 (c) Failure to comply with the reforestation requirements  
27 contained in any final order or decision shall constitute a removal  
28 of designation under the provisions of RCW 84.33.140, and a change of  
29 use under the provisions of RCW 84.34.080, and, if applicable, shall  
30 subject such lands to the payments and/or penalties resulting from  
31 such removals or changes.

32 (d) Conversion to a use other than commercial forest product  
33 operations within six years after approval of the forest practices  
34 application or notification without the consent of the county, city,  
35 or town shall constitute a violation of each of the county, municipal  
36 city, town, and regional authorities to which the forest practice  
37 operations would have been subject if the application had stated an  
38 intent to convert.

39 (e) Land that is the subject of a notice of conversion to a  
40 nonforestry use produced by the department and sent to the department

1 of ecology and a local government under this subsection is subject to  
2 the development prohibition and conditions provided in RCW 76.09.460.

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

8 (g) The application or notification must include a statement  
9 requiring an acknowledgment by the forestland owner of his or her  
10 intent with respect to conversion and acknowledging that he or she is  
11 familiar with the effects of this subsection.

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

18 (5) Before the operator commences any forest practice in a manner  
19 or to an extent significantly different from that described in a  
20 previously approved application or notification, there shall be  
21 submitted to the department a new application or notification form in  
22 the manner set forth in this section.

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

27 (b) A notification or application may be renewed for an  
28 additional three-year term by the filing and approval of a  
29 notification or application, as applicable, prior to the expiration  
30 of the original application or notification. A renewal application or  
31 notification is subject to the forest practices rules in effect at  
32 the time the renewal application or notification is filed. Nothing in  
33 this section precludes the applicant from applying for a new  
34 application or notification after the renewal period has lapsed.

35 (c) At the option of the applicant, an application or  
36 notification may be submitted to cover a single forest practice or a  
37 number of forest practices within reasonable geographic or political  
38 boundaries as specified by the department. An application or  
39 notification that covers more than one forest practice may have an  
40 effective term of more than three years.

1 (d) The board shall adopt rules that establish standards and  
2 procedures for approving an application or notification that has an  
3 effective term of more than three years. Such rules shall include  
4 extended time periods for application or notification approval or  
5 disapproval. The department may require the applicant to provide  
6 advance notice before commencing operations on an approved  
7 application or notification.

8 (7) Notwithstanding any other provision of this section, no prior  
9 application or notification shall be required for any emergency  
10 forest practice necessitated by fire, flood, windstorm, earthquake,  
11 or other emergency as defined by the board, but the operator shall  
12 submit an application or notification, whichever is applicable, to  
13 the department within forty-eight hours after commencement of such  
14 practice or as required by local regulations.

15 (8) Forest practices applications or notifications are not  
16 required for forest practices conducted to control exotic forest  
17 insect or disease outbreaks, when conducted by or under the direction  
18 of the department of agriculture in carrying out an order of the  
19 governor or director of the department of agriculture to implement  
20 pest control measures as authorized under chapter 17.24 RCW, and are  
21 not required when conducted by or under the direction of the  
22 department in carrying out emergency measures under a forest health  
23 emergency declaration by the commissioner of public lands as provided  
24 in RCW 76.06.130.

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

27 (b) In order to minimize adverse impacts to public resources,  
28 control measures must be based on integrated pest management, as  
29 defined in RCW 17.15.010, and must follow forest practices rules  
30 relating to road construction and maintenance, timber harvest, and  
31 forest chemicals, to the extent possible without compromising control  
32 objectives.

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

37 (d) When the appropriate regulatory staff of the department are  
38 notified under (c) of this subsection, they must consult with the  
39 landowner, interested agencies, and affected tribes, and assist the  
40 notifying agencies in the development of integrated pest management

1 plans that comply with forest practices rules as required under (b)  
2 of this subsection.

3 (e) Nothing under this subsection relieves agencies conducting or  
4 directing control efforts from requirements of the federal clean  
5 water act as administered by the department of ecology under RCW  
6 90.48.260.

7 (f) Forestlands where trees have been cut as part of an exotic  
8 forest insect or disease control effort under this subsection are  
9 subject to reforestation requirements under RCW 76.09.070.

10 (g) The exemption from obtaining approved forest practices  
11 applications or notifications does not apply to forest practices  
12 conducted after the governor, the director of the department of  
13 agriculture, or the commissioner of public lands have declared that  
14 an emergency no longer exists because control objectives have been  
15 met, that there is no longer an imminent threat, or that there is no  
16 longer a good likelihood of control.

17 NEW SECTION. **Sec. 5.** (1) Within existing resources, the  
18 department of agriculture must work with the departments of natural  
19 resources, labor and industries, health, and ecology, and consult  
20 with external stakeholders, to evaluate pesticide investigation  
21 rules, processes, and first responder outreach. By December 31, 2021,  
22 the work group must report back to the legislature with any  
23 recommended changes, including how complaints should be reported and  
24 ensuring that complaints are properly referred.

25 (2) This section expires December 31, 2021.

26 NEW SECTION. **Sec. 6.** (1) The department of natural resources  
27 must develop a proposal to be submitted to the governor and the  
28 legislature for inclusion in the 2021-2022 omnibus operating  
29 appropriations act to replace or upgrade the existing forest  
30 practices application review system. The department of natural  
31 resources must develop a proposed upgrade or replacement with an  
32 external steering group composed of users of the existing system. One  
33 outcome of an upgraded or replaced system must be an improved user  
34 interface for review of forest practices applications with aerial  
35 herbicide application as a component.

36 (2) This section expires June 30, 2022."

37 Correct the title.

EFFECT: The striking amendment makes the following changes to the underlying bill:

Provides an expiration date of June 30, 2030, for the section directing the Department of Natural Resources (DNR) to conduct research trials for chemical and nonchemical forest vegetation management strategies.

Requires the Forest Practices Board (Board), instead of the DNR, to improve aerial herbicide application signage information, makes the Forest Practices Board Manual updates directed in the bill, and requires the Board Manual to reflect that emergency contact information may rather than must be included on signage. The section directing these updates expires December 31, 2021.

Removes the requirement that the Department of Agriculture (WSDA) work with local health jurisdictions and the Washington State Poison Control Center to investigate pesticide rules and processes. Additionally, instead of specifically with nongovernmental stakeholders including tribal and environmental representatives, the WSDA must consult with external stakeholders.

Adds that the WSDA must also evaluate first responder outreach in the course of investigating pesticide rules and processes, changes the report due date from November 1, 2021, to December 31, 2021, and changes the expiration date of the section directing the report to December 31, 2021, from June 30, 2021.

Removes the section directing the DNR and the WSDA to evaluate how the State Environmental Policy Act is used for aerial herbicide application.

Removes the emergency clause and immediate effective date.

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