
**Rural Development, Agriculture, &
Natural Resources Committee**

SSB 6488

Brief Description: Concerning aerial herbicides in forestlands.

Sponsors: Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Rolfes, Saldaña and Van De Wege).

Brief Summary of Substitute Bill

- Implements certain recommendations from the Aerial Herbicides in Forestlands Work Group including using best management practices, improving communications, and addressing administrative and regulatory issues.
- Requires the Department of Agriculture and the Department of Natural Resources, in consultation with stakeholders, to review how the State Environmental Policy Act is used for aerial herbicide application.

Hearing Date: 2/25/20

Staff: Rebecca Lewis (786-7339).

Background:

Forest Practices and Herbicide Application.

The DNR manages a number of different categories of land, each for a specific purpose and under different management requirements. State forestlands are managed by the DNR for the benefit of the counties in which the lands are located. Other forestlands in the state are owned and managed by private entities or the federal government.

The Forest Practices Act establishes four classes of forest practices based on the potential for a proposed operation to adversely affect public resources. The Forest Practices Board (Board) establishes standards that determine which forest practices are included in each class. This

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includes standards for timber harvest, pre-commercial thinning, road construction, fertilization, and forest chemical application. The DNR processes and reviews applications and administers the forest practices program within the rules of the Board. The Forest Practices Board Manual (Board Manual) is an advisory technical supplement to the Washington State Forest Practices Rules and *Forest Practices Illustrated* is a book designed by the DNR to help forest owners, loggers, and others better understand Washington State's forest practices rules.

The Department of Agriculture administers the federal Insecticide, Fungicide, and Rodenticide Act, as well as the state Pesticide Control Act and the state Pesticide Application Act. Its activities include adopting rules requiring the registration and restricted use of pesticides, testing and certifying pesticide applicators, issuing handler and worker pesticide training documentation, and providing technical assistance to pesticide applicators and workers.

State Environmental Policy Act.

The State Environmental Policy Act (SEPA) establishes procedures and guidelines for state and local governments to review potential environmental impacts of projects and government decisions not exempt from its provisions. The SEPA process involves the completion of an environmental checklist by a lead agency and coordination with other governments and agencies as applicable. Some projects may require the preparation of an environmental impact statement. Information collected during the SEPA process may be used to adjust project proposals to reduce potential environmental impacts.

Aerial Herbicide Application Working Group.

Legislation enacted in 2019 established the Aerial Herbicide Application Working Group (Work Group), co-chaired by the Department of Natural Resources (DNR) and Department of Agriculture (WSDA), to review best practices for aerial application of herbicides in forestlands in the state. Members of the Work Group include state legislators, state and local governments, private timber managers, pesticide applicators, tribes, and environmental organizations. The Work Group held several meetings across the state to review existing best management practices for aerial application of herbicides on state and private forestlands. In December 2019, the Work Group submitted a report to the Legislature containing recommendations for best management practices, improved communications, and next steps to address administrative and regulatory issues.

Summary of Bill:

Forest Practices and Herbicide Application.

The Department of Natural Resources (DNR) must make completed forest practice applications readily available on the DNR's website. The DNR must integrate evaluation of forest practices aerial applications of herbicide into the 2021-2023 biennial forest practices compliance monitoring sampling.

The DNR must evaluate and conduct research trials of chemical and nonchemical forest vegetation management strategies, in a manner that does not disadvantage the trust beneficiaries,

and collaborate with other forestland owners through coordination with leading forestry research cooperatives and universities in the Pacific Northwest.

Through a stakeholder process, the Forest Practices Board (Board) must develop interpretive guidance in the Board Manual (Manual) to clarify adjacent property buffer requirements in the forest practices rules. This includes adding provisions to the Manual addressing protection of private property, including residential and agricultural properties. The guidance must include best management practices (BMPs) and technical guidance related to the aerial application of herbicides consistent with forest practice rules including equipment, weather conditions, communicating BMPs to neighbors, signage, and alternatives to herbicides as appropriate. The Board must complete the Manual updates by November 1, 2021. The DNR must improve the aerial herbicide signage information included in the Manual and *Forest Practices Illustrated* document, and provide a sign template that satisfies legal posting requirements.

The DNR, in cooperation with existing users of the forest practices application review system (system), must submit a proposal to the Governor and Legislature for inclusion in the 2021-2022 Omnibus Appropriations Act to replace or upgrade the current system. One outcome of the upgraded or replaced system must be an improved user interface for application review with aerial herbicide application as a component.

The WSDA must work with a variety of state agencies, local health jurisdictions, and the state poison center, and consult with other nongovernmental entities including tribes and environmental representatives, to evaluate pesticide investigation rules and processes. A report to the Legislature with recommended changes and recommendations on how complaints should be reported and ensuring complaints are properly referred is due by November 1, 2021.

State Environmental Policy Act.

By October 1, 2020, the WSDA and the DNR, in consultation with stakeholders, must review how the State Environmental Policy Act is used for aerial herbicide application. The WSDA and the DNR must provide recommendations to the Forest Practices Board, as well as the appropriate committees of the Legislature, for any revisions to the statute, rule, or guidance.

Aerial Herbicide Application Working Group.

Intent is expressed to adopt several recommendations of the Aerial Herbicide Application Working Group.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.