
HOUSE BILL 1823

State of Washington

52nd Legislature

1992 Regular Session

By Representatives Belcher, Beck, Spanel, Haugen, Miller, Phillips, R. King and Sprenkle; by request of Commissioner of Public Lands and Governor Gardner

Read first time 02/11/91. Referred to Committee on Natural Resources & Parks.

1 AN ACT Relating to forest lands; amending RCW 76.09.050, 76.09.060,
2 43.21C.037, 76.09.020, 76.09.040, 76.09.070, 90.58.150, 4.24.210,
3 7.48.300, 7.48.305, 7.48.310, 76.09.330, 84.33.100, 84.34.300,
4 84.34.310, 84.34.320, 84.34.330, 84.34.340, 84.34.360, 84.34.370,
5 84.34.380, 76.09.240, 76.09.170, 76.09.180, 76.09.230, 76.09.080, and
6 76.04.005; adding a new section to chapter 76.01 RCW; adding new
7 sections to chapter 76.09 RCW; adding a new section to chapter 82.45
8 RCW; adding new sections to chapter 84.33 RCW; adding a new chapter to
9 Title 76 RCW; creating new sections; prescribing penalties; making
10 appropriations; providing an expiration date; providing an effective
11 date; and declaring an emergency.

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

13 PART I

INTENT

1

2 NEW SECTION. **Sec. 101.** (1) The legislature hereby finds and
3 declares it to be in the public interest of this state to conserve the
4 productivity of the forest land of the state and its associated
5 resources by maintaining the integrity of biological and ecological
6 processes while producing commodities and other services. To achieve
7 sustainable forestry requires:

8 (a) A long-term commitment to stewardship informed by advances in
9 scientific knowledge and responsive to changing human values;

10 (b) Integration of the needs of the forest ecosystem with the need
11 for a viable forest industry as a whole to produce renewable forest
12 products and services in perpetuity;

13 (c) Management decisions that maintain future options in response
14 to new knowledge and understanding of how the forest ecosystem
15 functions;

16 (d) The maintenance of as large a forest base as possible, which
17 requires recognition of the critical role that private and public
18 ownership, investment, and management will play in achieving
19 sustainable forestry over large areas in the state; and

20 (e) An evolution in management of forest land that increases the
21 compatibility of all benefits and uses provided by the state's forests,
22 but with a recognition that during this evolution, decisions must be
23 made subject to the constraints imposed by land ownership patterns, age
24 of stands of timber, and an emerging knowledge of the complex
25 interactions in the forest.

26 (2) The legislature recognizes the great importance of stability in
27 the laws and rules governing forest practices conducted in this state.
28 This stability provides the forest landowners of this state with
29 predictability concerning capital investment, land management, and

1 employment planning, and provides citizens and agencies a stable and
2 understandable base to assess the benefits and concerns that may be
3 associated with forest practices. To provide this stability, the
4 legislature finds that the forest practices act should be subject to
5 regular review as provided in this act and that it is the legislature's
6 intent that the balancing of interests reflected in this act should
7 endure at least ten years.

8 PART II

9 MAINTAINING THE PRODUCTIVE TIMBER LAND BASE--

10 REGULATION OF FOREST LAND CONVERSION

11 **Sec. 201.** RCW 76.09.050 and 1990 1st ex.s. c 17 s 61 are each
12 amended to read as follows:

13 (1) The board shall establish by rule which forest practices shall
14 be included within each of the following classes:

15 Class I: Minimal or specific forest practices that have no direct
16 potential for damaging a public resource that may be conducted without
17 submitting an application or a notification;

18 Class II: Forest practices which have a less than ordinary
19 potential for damaging a public resource that may be conducted without
20 submitting an application and, except as provided in section 202 of
21 this act, may begin five calendar days, or such lesser time as the
22 department may determine, after written notification by the operator,
23 in the manner, content, and form as prescribed by the department, is
24 received by the department. Class II shall not include forest
25 practices:

26 (a) On lands (~~(platted after January 1, 1960, or)~~) being converted
27 to another use;

1 (b) On lands which, pursuant to RCW 76.09.070, may not be
2 reforested because of the likelihood of future conversion to a use
3 incompatible with long-term commercial timber production within a ten-
4 year period; or

5 ~~((b))~~ (c) Which require approvals under the provisions of the
6 hydraulics act, RCW 75.20.100;

7 ~~((e))~~ (d) Within "shorelines of the state" as defined in RCW
8 90.58.030; or

9 ~~((d))~~ (e) Excluded from Class II by the board;

10 Class III: Forest practices other than those contained in Class I,
11 II, or IV. Except as provided in section 202 of this act, the
12 department must approve or disapprove a Class III application ~~((must be~~
13 ~~approved or disapproved by the department))~~ within thirty calendar days
14 from the date the department receives the application;

15 Class IV: Forest practices other than those contained in Class I
16 or II: ~~((a) On lands platted after January 1, 1960, (b) on))~~ (i)
17 Lands being converted to another use, ~~((e))~~ (ii) on lands which,
18 pursuant to RCW 76.09.070 ~~((as now or hereafter amended,))~~ are not to
19 be reforested because of the likelihood of future conversion to ~~((urban~~
20 ~~development,))~~ a use incompatible with long-term commercial timber
21 production within a ten-year period: PROVIDED, That such forest
22 practices shall not be Class IV if: (A) The forest landowner submits
23 with the forest practices application, on a form prepared by the
24 department, a statement under penalty of perjury of intent not to
25 convert to a use incompatible with long-term commercial timber
26 production for a period of ten years after completion of the forest
27 practice, which shall include an affirmation that the landowner is
28 aware of the provisions of RCW 76.09.060(3); and either (B) the land is
29 enrolled under the provision of chapter 84.28, 84.33 or 84.34 RCW; or
30 (C) a written management plan for the land covering the next ten years

1 has been received and accepted by the department: PROVIDED, FURTHER,
2 That nothing in this section shall be construed to change the
3 classification of forest practices which are Class IV under (i) or
4 (iii) of this subsection; and/or (~~(d)~~) (iii) which have a potential
5 for a substantial impact on the environment and therefore require an
6 evaluation by the department as to whether a detailed statement must be
7 prepared pursuant to the state environmental policy act, chapter 43.21C
8 RCW. (~~Such evaluation shall be made~~) Timber harvesting using even-
9 aged harvest methods on harvest units over two hundred forty acres
10 proposed by a single landowner is a forest practice that has the
11 potential for a substantial impact on the environment. Timber
12 harvesting using even-aged harvest methods on harvest units smaller
13 than or equal to two hundred forty acres proposed by a single landowner
14 shall not be a Class IV forest practice based solely on size. The
15 department shall make its evaluation as to whether a detailed statement
16 must be prepared for forest practices that have a potential for a
17 substantial impact on the environment within ten days from the date the
18 department receives the application: PROVIDED, That nothing herein
19 shall be construed to prevent any local or regional governmental entity
20 from determining that a detailed statement must be prepared for an
21 action pursuant to a Class IV forest practice taken by that
22 governmental entity concerning the land on which forest practices will
23 be conducted. A Class IV application must be approved or disapproved
24 by the department within thirty calendar days from the date the
25 department receives the application, unless the department determines
26 that a detailed statement must be made, in which case the application
27 must be approved or disapproved by the department within sixty calendar
28 days from the date the department receives the application, unless the
29 commissioner of public lands, through the promulgation of a formal

1 order, determines that the process cannot be completed within such
2 period.

3 Forest practices under Classes I, II, and III are exempt from the
4 requirements for preparation of a detailed statement under the state
5 environmental policy act.

6 (2) No Class II, Class III, or Class IV forest practice shall be
7 commenced (~~(or continued after January 1, 1975,)~~) unless the department
8 has received a notification with regard to a Class II forest practice
9 or approved an application with regard to a Class III or Class IV
10 forest practice containing all information required by RCW 76.09.060
11 (~~(as now or hereafter amended: PROVIDED, That any person commencing a~~
12 ~~forest practice during 1974 may continue such forest practice until~~
13 ~~April 1, 1975, if such person has submitted an application to the~~
14 ~~department prior to January 1, 1975: PROVIDED, FURTHER, That in the~~
15 ~~event forest practices regulations necessary for the scheduled~~
16 ~~implementation of this chapter and RCW 90.48.420 have not been adopted~~
17 ~~in time to meet such schedules, the department shall have the authority~~
18 ~~to regulate forest practices and approve applications on such terms and~~
19 ~~conditions consistent with this chapter and RCW 90.48.420 and the~~
20 ~~purposes and policies of RCW 76.09.010 until applicable forest~~
21 ~~practices regulations are in effect)).~~

22 (3) If a notification or application is delivered in person to the
23 department by the operator or his or her agent, the department shall
24 immediately provide a dated receipt thereof. In all other cases, the
25 department shall immediately mail a dated receipt to the operator.

26 (4) Forest practices shall be conducted in accordance with the
27 forest practices (~~(regulations)~~) rules, orders and directives as
28 authorized by this chapter or the forest practices (~~(regulations)~~)
29 rules, and the terms and conditions of any approved applications.

1 (5) The department of natural resources shall notify the applicant
2 in writing of either its approval of the application or its disapproval
3 of the application and the specific manner in which the application
4 fails to comply with the provisions of this section or with the forest
5 practices (~~(regulations)~~) rules. Except as provided otherwise in this
6 section, if the department fails to either approve or disapprove an
7 application or any portion thereof within the applicable time limit,
8 the application shall be deemed approved and the operation may be
9 commenced: PROVIDED, That this provision shall not apply to
10 applications which are neither approved nor disapproved pursuant to the
11 provisions of subsection (7) of this section: PROVIDED, FURTHER, That
12 if seasonal field conditions prevent the department from being able to
13 properly evaluate the application, the department may issue an approval
14 conditional upon further review within sixty days(~~(:—PROVIDED,~~
15 ~~FURTHER, That the department shall have until April 1, 1975, to approve~~
16 ~~or disapprove an application involving forest practices allowed to~~
17 ~~continue to April 1, 1975, under the provisions of subsection (2) of~~
18 ~~this section)~~). Upon receipt of any notification or any satisfactorily
19 completed application the department shall in any event no later than
20 two business days after such receipt transmit a copy to the departments
21 of ecology, wildlife, and fisheries, affected federally recognized
22 Indian tribes, and to the county, city, or town in whose jurisdiction
23 the forest practice is to be commenced. Any comments by such agencies
24 shall be directed to the department of natural resources.

25 (6) If the county, city, or town believes that an application is
26 inconsistent with this chapter, the forest practices (~~(regulations)~~)
27 rules, or any local authority consistent with RCW 76.09.240 as now or
28 hereafter amended, it may so notify the department and the applicant,
29 specifying its objections.

1 (7) The department shall not approve portions of applications to
2 which a county, city, or town objects if:

3 (a) The department receives written notice from the county, city,
4 or town of such objections within fourteen business days from the time
5 of transmittal of the application to the county, city, or town, or one
6 day before the department acts on the application, whichever is later;
7 (~~and~~)

8 (b) The objections relate to lands either:

9 (i) (~~Platted after January 1, 1960; or~~

10 ~~(ii))~~ Being converted to another use; or

11 (ii) Which, pursuant to RCW 76.09.070, may not be reforested
12 because of the likelihood of future conversion to a use incompatible
13 with long-term commercial timber production within a ten-year period;
14 and

15 (c) The county, city, or town has issued a permit described in
16 subsection (8) of this section.

17 The department shall either disapprove those portions of such
18 application or appeal the county, city, or town objections to the
19 appeals board. If the objections related to subparagraphs (b) (i) and
20 (ii) of this subsection are based on local authority consistent with
21 RCW 76.09.240 as now or hereafter amended, the department shall
22 disapprove the application until such time as the county, city, or town
23 consents to its approval or such disapproval is reversed on appeal.
24 The applicant shall be a party to all department appeals of county,
25 city, or town objections. Unless the county, city, or town either
26 consents or has waived its rights under this subsection, the department
27 shall not approve portions of an application affecting such lands until
28 the minimum time for county, city, or town objections has expired.

29 (8) For Class IV forest practices on lands specified in subsection
30 (7)(b)(i) and (ii) of this section, the following shall apply:

1 (a) The department shall condition forest practices applications
2 consistent with the request of the county, city, or town if:

3 (i) The county, city, or town has adopted a clearing and/or grading
4 ordinance, or a sensitive area ordinance that addresses the items
5 listed in (b) of this subsection and requires a permit;

6 (ii) The county, city, or town has issued a permit pursuant to its
7 clearing and/or grading ordinance, or sensitive area ordinance that
8 contains the conditions it is requesting the department to place on the
9 forest practices permit; and

10 (iii) The county, city, or town has entered into an interagency
11 agreement with the department, consistent with any forest practices
12 rules regarding interagency agreements, that addresses enforcement of
13 the conditions on forest practices permits. The county, city, or town
14 shall be responsible for enforcing its own ordinances and permits.

15 (b) The conditions requested by the county, city, or town may only
16 cover:

17 (i) The location and character of open space and vegetative
18 buffers;

19 (ii) The location and design of roads;

20 (iii) The retention of trees for bank stabilization, erosion
21 prevention, and storm water management; or

22 (iv) The protection of designated critical areas.

23 (c) Any exercise of local government authority consistent with (b)
24 of this subsection shall be considered consistent with the forest
25 practices rules adopted under this chapter.

26 (d) Conditions requested by the county, city, or town shall be
27 filed with the department within twenty-nine days of the filing of the
28 application with the department or within fourteen business days of the
29 transmittal of the application to the county or one day before the
30 department acts on the application, whichever is later.

1 (e) This section does not affect any authority of a county, city,
2 or town under the state environmental policy act, chapter 43.21C RCW.

3 (9) In addition to any rights under the above paragraphs, the
4 county, city, or town may appeal any department approval of an
5 application with respect to any lands within its jurisdiction. The
6 appeals board may suspend the department's approval in whole or in part
7 pending such appeal where there exists potential for immediate and
8 material damage to a public resource.

9 ~~((9))~~ (10) Appeals under this section shall be made to the
10 appeals board in the manner and time provided in RCW 76.09.220(8). In
11 such appeals there shall be no presumption of correctness of either the
12 county, city, or town or the department position.

13 ~~((10))~~ (11) The department shall, within four business days
14 notify the county, city, or town of all notifications, approvals, and
15 disapprovals of an application affecting lands within the county, city,
16 or town, except to the extent the county, city, or town has waived its
17 right to such notice.

18 ~~((11))~~ (12) A county, city, or town may waive in whole or in part
19 its rights under this section, and may withdraw or modify any such
20 waiver, at any time by written notice to the department.

21 **Sec. 202.** RCW 76.09.060 and 1990 1st ex.s. c 17 s 62 are each
22 amended to read as follows:

23 (1) The department shall prescribe the form and contents of the
24 notification and application. The forest practices ~~((regulations))~~
25 rules shall specify by whom and under what conditions the notification
26 and application shall be signed or otherwise certified as acceptable.
27 The application or notification shall be delivered in person ~~((or))~~ to
28 the department, sent by ~~((certified))~~ first class mail to the
29 department or electronically filed in a form defined by the department.

1 The form for electronic filing shall be readily convertible to a paper
2 copy, which shall be available to the public pursuant to chapter 42.17
3 RCW. The information required may include, but ~~((shall))~~ is not ~~((be))~~
4 limited to:

5 (a) Name and address of the forest landowner, timber owner, and
6 operator;

7 (b) Description of the proposed forest practice or practices to be
8 conducted;

9 (c) Legal description of the land on which the forest practices are
10 to be conducted;

11 (d) Planimetric and topographic maps showing location and size of
12 all lakes and streams and other public waters in and immediately
13 adjacent to the operating area and showing all existing and proposed
14 roads and major tractor roads;

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

18 (f) Proposed plan for reforestation and for any revegetation
19 necessary to reduce erosion potential from roadsides and yarding roads,
20 as required by the forest practices ~~((regulations))~~ rules;

21 (g) Soil, geological, and hydrological data with respect to forest
22 practices;

23 (h) The expected dates of commencement and completion of all forest
24 practices specified in the application;

25 (i) Provisions for continuing maintenance of roads and other
26 construction or other measures necessary to afford protection to public
27 resources; ~~((and))~~

28 (j) An affirmation that the statements contained in the
29 notification or application are true;

1 (k) Statistics from the last quarterly report submitted under
2 section 307 of this act covering the percent of the applicant's land
3 base in the WRIA harvested by even-aged harvest methods in the current
4 calendar year and approximate total acres owned by the applicant in the
5 WRIA; and

6 (l) An affirmation by the forest landowner that the landowner
7 understands and will comply with the applicable reforestation
8 requirements.

9 ~~((At the option of the applicant, the application or~~
10 ~~notification may be submitted to cover a single forest practice or any~~
11 ~~number of forest practices within reasonable geographic or political~~
12 ~~boundaries as specified by the department.)) Long range plans may be
13 submitted to the department for review and consultation.~~

14 (3) The application for a forest practice or the notification of a
15 Class II forest practice shall indicate whether any land covered by the
16 application or notification will be converted or is intended to be
17 converted to a use other than commercial timber production within three
18 years after completion of the forest practices described in it.

19 (a) If the application states that any such land will be or is
20 intended to be so converted:

21 (i) The reforestation requirements of this chapter and of the
22 forest practices ~~((regulations))~~ rules shall not apply if the land is
23 in fact so converted unless applicable alternatives or limitations are
24 provided in forest practices ~~((regulations))~~ rules issued under RCW
25 76.09.070 as now or hereafter amended;

26 (ii) Completion of such forest practice operations shall be deemed
27 conversion of the lands to another use for purposes of chapters 84.28,
28 84.33, and 84.34 RCW unless the conversion is to a use permitted under
29 a current use tax agreement permitted under chapter 84.34 RCW;

1 (iii) The forest practices described in the application are subject
2 to applicable county, city, town, and regional governmental authority
3 permitted under RCW 76.09.240 as now or hereafter amended as well as
4 the forest practices (~~regulations~~) rules.

5 (b) If the application or notification does not state that any land
6 covered by the application or notification will be or is intended to be
7 so converted:

8 (i) For six years after the date of the forest practices
9 application or notification the county, city, town, and regional
10 governmental entities may refuse to accept and process or deny any or
11 all applications for permits or approvals, including building permits
12 and subdivision approvals, relating to nonforestry uses of land subject
13 to the application. If the county, city, town, or regional government
14 chooses to accept and process applications, within twenty years of the
15 original forest practices application it may require mitigation for
16 resource damage caused by noncompliance with its clearing and/or
17 grading or sensitive area ordinances in effect at the time of filing of
18 the original forest practices application: PROVIDED, That nothing in
19 this section shall limit the authority of a county, city, town, or
20 regional government under chapter 43.21C RCW;

21 (ii) Failure to comply with the reforestation requirements
22 contained in any final order or decision shall constitute a removal
23 from classification under the provisions of RCW 84.28.065, a removal of
24 designation under the provisions of RCW 84.33.140, and a change of use
25 under the provisions of RCW 84.34.080, and, if applicable, shall
26 subject such lands to the payments and/or penalties resulting from such
27 removals or changes; and

28 (iii) Conversion to a use (~~other than~~) incompatible with long-
29 term commercial timber (~~operations~~) production within three years
30 after completion of the forest practices without the consent of the

1 county, city, or town shall constitute a violation of each of the
2 county, municipal city, town, and regional authorities to which the
3 forest practice operations would have been subject if the application
4 had so stated.

5 (c) For six years after the date of an application for a conversion
6 to an agricultural use, the county, city, town, and regional
7 governmental entities may refuse to accept and process or may deny any
8 and all applications for permits or approvals, including building
9 permits and subdivision approvals, relating to nonagricultural uses of
10 land subject to the application.

11 (d) If a forest practice is conducted without an application or
12 notification required by this chapter, for six years after the date the
13 forest practice is discovered, the county, city, town, and regional
14 governmental entity may refuse to accept and process, and may deny any
15 and all applications for permits or approvals, including building
16 permits and subdivision approvals, relating to use of land subject to
17 the application that is incompatible with long-term timber production.

18 (e) If a landowner wishes to maintain the option for conversion to
19 a use incompatible with long-term commercial timber production the
20 landowner may request the appropriate local government entity to
21 approve a conversion option harvest plan. "Conversion option harvest
22 plan" means a plan developed by the landowner and approved by a local
23 government entity indicating the limits of harvest areas, road
24 locations, and open space. This plan, if followed by the landowner,
25 shall release the landowner from the provisions of subsection
26 (3)(b)(i), (c), and (d) of this section, but does not create any other
27 rights. The conversion option harvest plan shall be attached to the
28 forest practice application as a condition. Violation of the
29 conversion option harvest plan shall result in the reinstatement of the
30 provisions of subsection (3)(b)(i), (c), and (d) of this section.

1 Reforestation requirements of this chapter and the forest practices
2 rules shall not be waived in the conversion option harvest plan.
3 Nothing herein shall preclude the local government entity from charging
4 a fee to approve such a plan.

5 (f) The application or notification shall be either signed by the
6 landowner or accompanied by a statement signed under penalty of perjury
7 by the landowner indicating his or her intent with respect to
8 conversion and acknowledging that he or she is familiar with the
9 effects of this (~~subsection~~) section, including possible penalties
10 and restoration requirements.

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

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

22 (6) The notification to or the approval given by the department to
23 an application to conduct a forest practice shall be effective for a
24 term of (~~one~~) two years from the date of approval or notification and
25 shall not be renewed unless a new application is filed and approved or
26 a new notification has been filed. At the option of the applicant, an
27 application or notification may be submitted to cover a single forest
28 practice or a number of forest practices. An application or
29 notification that covers more than one forest practice may have an
30 effective term of more than two years. The board shall adopt rules

1 that establish standards and procedures for approving an application or
2 notification that has an effective term of more than two years. Such
3 rules shall include extended time periods for application or
4 notification approval or disapproval. On an approved application with
5 a term of more than two years, the applicant shall inform the
6 department before commencing operations.

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

13 **Sec. 203.** RCW 43.21C.037 and 1983 c 117 s 2 are each amended to
14 read as follows:

15 (1) Decisions pertaining to applications for Class I, II, and III
16 forest practices, as defined by rule of the forest practices board
17 under RCW 76.09.050, are not subject to the requirements of RCW
18 43.21C.030(2)(c) as now or hereafter amended.

19 (2) When the applicable county, city, or town requires a license in
20 connection with any proposal involving forest practices (a) (~~on lands~~
21 ~~platted after January 1, 1960, (b))~~) on lands being converted to
22 another use, or (~~(e))~~) (b) on lands which, pursuant to RCW 76.09.070
23 as now or hereafter amended, are not to be reforested because of the
24 likelihood of future conversion to (~~urban development~~) a use
25 incompatible with long-term commercial timber production within a ten-
26 year period, then the local government, rather than the department of
27 natural resources, is responsible for any detailed statement required
28 under RCW 43.21C.030(2)(c).

1 (3) Those forest practices determined by rule of the forest
2 practices board to have a potential for a substantial impact on the
3 environment, and thus to be Class IV practices, require an evaluation
4 by the department of natural resources as to whether or not a detailed
5 statement must be prepared pursuant to this chapter. The evaluation
6 shall be made within ten days from the date the department receives the
7 application. A Class IV forest practice application must be approved
8 or disapproved by the department within thirty calendar days from the
9 date the department receives the application, unless the department
10 determines that a detailed statement must be made, in which case the
11 application must be approved or disapproved by the department within
12 sixty days from the date the department receives the application,
13 unless the commissioner of public lands, through the promulgation of a
14 formal order, determines that the process cannot be completed within
15 such period. This section shall not be construed to prevent any local
16 or regional governmental entity from determining that a detailed
17 statement must be prepared for an action regarding a Class IV forest
18 practice taken by that governmental entity concerning the land on which
19 forest practices will be conducted.

20 PART III

21 REGULATION OF HARVEST AND OTHER FOREST PRACTICES

22 **Sec. 301.** RCW 76.09.020 and 1974 ex.s. c 137 s 2 are each amended
23 to read as follows:

24 For purposes of this chapter:

25 (1) "Appeals board" shall mean the forest practices appeals board
26 created by RCW 76.09.210.

27 (2) "Clearcut" shall mean a harvest method in which the entire
28 stand of trees is removed in one timber harvesting operation leaving

1 fewer seedlings, saplings, or merchantable trees per acre than are
2 prescribed under the reforestation rules adopted under this chapter.
3 Forest practices involving the clearing of land of hardwoods,
4 understocked stands, or brush where such practices fail to maintain
5 minimum stocking levels prescribed under the reforestation rules
6 adopted under this chapter are clearcuts for the purpose of this
7 chapter. Except as provided in section 501 of this act, an area
8 remains clearcut until:

9 (a) It meets the minimum stocking requirements under reforestation
10 rules adopted under this chapter; and

11 (b) The largest trees qualifying for the minimum stocking levels
12 have survived on the area for five years or, if the qualifying trees
13 are less than five years old, they have reached an average height of
14 four feet.

15 (3) "Commissioner" shall mean the commissioner of public lands.

16 ~~((+3))~~ (4) "Contiguous" shall mean land adjoining or touching by
17 common corner or otherwise. Land having common ownership divided by a
18 road or other right of way shall be considered contiguous.

19 ~~((+4))~~ (5) "Conversion to a use ((~~other than~~)) incompatible with
20 long-term commercial timber ((~~operation~~)) production" shall mean a bona
21 fide conversion to an active use which is incompatible with timber
22 growing and as may be defined by forest practices ((~~regulations~~))
23 rules.

24 ~~((+5))~~ (6) "Department" shall mean the department of natural
25 resources.

26 ~~((+6))~~ (7) "Even-aged harvest methods" shall mean the following
27 harvest methods:

28 (a) Clearcuts;

29 (b) Seed tree or shelterwood regeneration harvests in which there
30 remain after harvest twenty or fewer trees per acre and group or strip

1 shelterwood harvests creating openings wider than two tree heights,
2 based on dominant trees;

3 (c) Shelterwood release harvests in which all overstory trees are
4 removed;

5 (d) Overstory removal of more than five thousand board feet per
6 acre;

7 (e) Other harvesting methods designed to manage for multiple age
8 classes in which nineteen or fewer trees per acre remain after harvest:
9 PROVIDED, That densities of seven through nineteen trees per acre
10 remaining shall not be considered as even-aged harvest for purposes of
11 section 304 of this act and that one-half the acreage with such
12 densities remaining shall count as harvested for purposes of section
13 306 of this act; and

14 (f) Trees counted as remaining after harvest shall be at least ten
15 inches in diameter at breast height and have the top one-third of the
16 stem supporting green, live crowns.

17 (8) "Forest land" shall mean all land which is capable of
18 supporting a merchantable stand of timber and is not being actively
19 used for a use which is incompatible with timber growing.

20 ~~((+7))~~ (9) "Forest landowner" shall mean any person in actual
21 control of forest land, whether such control is based either on legal
22 or equitable title, or on any other interest entitling the holder to
23 sell or otherwise dispose of any or all of the timber on such land in
24 any manner: PROVIDED, That any lessee or other person in possession of
25 forest land without legal or equitable title to such land shall be
26 excluded from the definition of "forest landowner" unless such lessee
27 or other person has the right to sell or otherwise dispose of any or
28 all of the timber located on such forest land.

1 (~~(8)~~) (10) "Forest practice" shall mean any activity conducted on
2 or directly pertaining to forest land and relating to growing,
3 harvesting, or processing timber, including but not limited to:

4 (a) Road and trail construction;

5 (b) Harvesting, final and intermediate;

6 (c) Precommercial thinning;

7 (d) Reforestation;

8 (e) Fertilization;

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

10 (g) Salvage of trees; and

11 (h) Brush control.

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

18 (~~(9)~~) (11) "Forest practices (~~(regulations)~~) rules" shall mean
19 any rules promulgated pursuant to (~~(RCW 76.09.040)~~) this chapter.

20 (12) "Interdisciplinary team" shall mean a group of varying size
21 comprised of individuals having specialized expertise, assembled by the
22 department to respond to technical questions associated with a proposed
23 forest practice activity.

24 (13) "Islands" shall mean any island surrounded by salt water in
25 Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom,
26 Island, and San Juan counties.

27 (~~(10)~~) (14) "Lands under uneven-aged management" shall mean those
28 lands that the landowner declares an intent to manage using uneven-aged
29 harvest methods only and which have or can be managed to produce the
30 characteristics of late successional stages, including multistoried

1 canopies and diversity of plant and animal species. Lands harvested
2 using uneven-aged harvest methods shall, if the landowner files with
3 the department, in a form acceptable to the department, a statement
4 under penalty of perjury, of intent to manage under uneven-aged
5 management in the future, be deemed "lands managed under uneven-aged
6 management."

7 (15) "Uneven-aged harvest methods" shall mean the following harvest
8 methods:

9 (a) Shelterwood preparatory cuts in which twenty or more trees per
10 acre remain standing;

11 (b) Partial cuts in which fifty or more trees per acre remain
12 standing;

13 (c) Selective harvests in which at least three size classes of
14 trees or three layers of tree canopy remain after harvest, well
15 distributed over the harvested area, provided that group selection may
16 create openings if the openings are no larger than the combined height
17 of two trees dominant in the remaining stand;

18 (d) Overstory removal of five thousand board feet per acre or less
19 in which at least one hundred stems per acre at least ten feet in
20 height remain after harvest;

21 (e) Other harvesting methods designed to manage for multiple-age
22 classes in which twenty or more trees per acre remain for one or more
23 years after harvest; and

24 (f) Except for stems counted under subsection (15)(d) of this
25 section, trees counted as remaining after harvest shall be at least ten
26 inches in diameter at breast height and have the top one-third of the
27 stem supporting green, live crowns.

28 (16) "Application" shall mean the application required pursuant to
29 RCW 76.09.050.

1 (~~(11)~~) (17) "Operator" shall mean any person engaging in forest
2 practices except an employee with wages as his sole compensation.

3 (~~(12)~~) (18) "Person" shall mean any individual, partnership,
4 private, public, or municipal corporation, county, the department or
5 other state or local governmental entity, or association of individuals
6 of whatever nature.

7 (~~(13)~~) (19) "Public resources" shall mean water, fish and
8 wildlife, and in addition shall mean capital improvements of the state
9 or its political subdivisions.

10 (~~(14)~~) (20) "Timber" shall mean forest trees, standing or down,
11 of a commercial species, including Christmas trees.

12 (~~(15)~~) (21) "Timber owner" shall mean any person having all or
13 any part of the legal interest in timber. Where such timber is subject
14 to a contract of sale, "timber owner" shall mean the contract
15 purchaser.

16 (~~(16)~~) (22) "Board" shall mean the forest practices board created
17 in RCW 76.09.030.

18 (23) "Water resource inventory area" or "WRIA" shall mean those
19 areas delineated by the department of ecology pursuant to chapter 90.54
20 RCW as of the effective date of this act.

21 (24) "Indian tribe" or "tribe" shall mean any federally recognized
22 Indian tribe.

23 **Sec. 302.** RCW 76.09.040 and 1988 c 36 s 46 are each amended to
24 read as follows:

25 (1) Where necessary to accomplish the purposes and policies stated
26 in RCW 76.09.010, and to implement the provisions of this chapter, the
27 board shall promulgate forest practices (~~(regulations)~~) rules pursuant
28 to chapter 34.05 RCW and in accordance with the procedures enumerated
29 in this section, including rules, that:

1 (a) Establish minimum standards for forest practices;

2 (b) Establish criteria under which the department may condition
3 forest practices applications and notifications under this chapter;

4 (c) Provide procedures for the voluntary development of resource
5 management plans which may be adopted as an alternative to the minimum
6 standards in (a) of this subsection if the plan is consistent with the
7 purposes and policies stated in RCW 76.09.010 and the plan meets or
8 exceeds the objectives of the minimum standards; (~~and~~

9 ~~(e))~~ (d) Provide for a program to monitor the rate of timber
10 harvest using even-aged harvest methods; and

11 (e) Set forth necessary administrative provisions.

12 Forest practices (~~(regulations)~~) rules pertaining to water quality
13 protection shall be promulgated individually by the board and by the
14 department of ecology after they have reached agreement with respect
15 thereto. All other forest practices (~~(regulations)~~) rules shall be
16 promulgated by the board.

17 Forest practices (~~(regulations)~~) rules shall be administered and
18 enforced by the department except as otherwise provided in this
19 chapter. Such (~~(regulations)~~) rules shall be promulgated and
20 administered so as to give consideration to all purposes and policies
21 set forth in RCW 76.09.010.

22 (2) The board shall prepare proposed forest practices
23 (~~(regulations)~~) rules. In addition to any forest practices
24 (~~(regulations)~~) rules relating to water quality protection proposed by
25 the board, the department of ecology shall prepare proposed forest
26 practices (~~(regulations)~~) rules relating to water quality protection.

27 (~~(Prior to initiating)~~) Before the rule-making process begins, the
28 proposed (~~(regulations)~~) rules shall be submitted for review and
29 comments to the department of fisheries, the department of wildlife,
30 federally recognized Indian tribes, and to the counties of the state.

1 After receipt of the proposed forest practices (~~(regulations)~~) rules,
2 the departments of fisheries and wildlife, federally recognized Indian
3 tribes, and the counties of the state shall have thirty days in which
4 to review and submit comments to the board, and to the department of
5 ecology with respect to its proposed (~~(regulations)~~) rules relating to
6 water quality protection. After the expiration of such thirty day
7 period the board and the department of ecology shall jointly hold one
8 or more hearings on the proposed (~~(regulations)~~) rules pursuant to
9 chapter 34.05 RCW. At such hearing(s) any county may propose specific
10 forest practices (~~(regulations)~~) rules relating to problems existing
11 within such county. The board and the department of ecology may adopt
12 such proposals if they find the proposals are consistent with the
13 purposes and policies of this chapter.

14 **Sec. 303.** RCW 76.09.070 and 1987 c 95 s 10 are each amended to
15 read as follows:

16 After the completion of a logging operation, satisfactory
17 reforestation as defined by the rules (~~(and regulations)~~) promulgated
18 by the board shall be completed within three years: PROVIDED, That:
19 (1) A longer period may be authorized if seed or seedlings are not
20 available; (2) a period of up to five years may be allowed where a
21 natural regeneration plan is approved by the department; and (3) the
22 department may identify low-productivity lands on which it may allow
23 for a period of up to ten years for natural regeneration. Upon the
24 completion of a reforestation operation a report on such operation
25 shall be filed with the department of natural resources. Within twelve
26 months of receipt of such a report the department shall inspect the
27 reforestation operation, and shall determine either that the
28 reforestation operation has been properly completed or that further
29 reforestation and inspection is necessary.

1 Satisfactory reforestation is the obligation of the owner of the
2 land as defined by forest practices regulations, except the owner of
3 perpetual rights to cut timber owned separately from the land is
4 responsible for satisfactory reforestation. The reforestation
5 obligation shall become the obligation of a new owner if the land or
6 perpetual timber rights are sold or otherwise transferred.

7 Prior to the sale or transfer of land or perpetual timber rights
8 subject to a reforestation obligation, the seller shall notify the
9 buyer of the existence and nature of the obligation and the buyer shall
10 sign a notice of reforestation obligation indicating the buyer's
11 knowledge thereof. The notice shall be on a form prepared by the
12 department and shall be sent to the department by the seller at the
13 time of sale or transfer of the land or perpetual timber rights. If
14 the seller fails to notify the buyer about the reforestation
15 obligation, the seller shall pay the buyer's costs related to
16 reforestation, including all legal costs which include reasonable
17 attorneys' fees, incurred by the buyer in enforcing the reforestation
18 obligation against the seller. Failure by the seller to send the
19 required notice to the department at the time of sale shall be prima
20 facie evidence, in an action by the buyer against the seller for costs
21 related to reforestation, that the seller did not notify the buyer of
22 the reforestation obligation prior to sale.

23 The forest practices regulations may provide alternatives to or
24 limitations on the applicability of reforestation requirements with
25 respect to forest lands being converted in whole or in part to another
26 use which is compatible with timber growing. The forest practices
27 ~~((regulations may))~~ rules shall identify ~~((classifications and/or))~~
28 criteria under which the department will designate areas of forest land
29 that have the likelihood of future conversion to ~~((urban development))~~
30 a use incompatible with long-term commercial timber production within

1 a ten-year period. The reforestation requirements may be modified or
2 eliminated on such lands: PROVIDED, That such ((identification))
3 designation and/or such conversion to ((urban-development)) a use
4 incompatible with long-term commercial timber production must be
5 consistent with any local or regional land use plans or ordinances.

6 NEW SECTION. Sec. 304. In addition to other rules established
7 by the board, the board shall adopt rules for the timing and
8 distribution of those timber harvesting practices that establish even-
9 aged stands of timber or that remove substantially all merchantable
10 timber in accordance with the following:

11 (1) Harvest units larger than one hundred twenty acres and smaller
12 than or equal to two hundred forty acres proposed by a single landowner
13 shall, if determined to be necessary by the department, be reviewed by
14 an interdisciplinary team.

15 (2) Harvest units shall be designed so that each harvest unit by a
16 single landowner meets at least one of the following criteria:

17 (a) At least thirty percent of the unit's perimeter is in stands of
18 trees that are thirty years of age or older;

19 (b) At least sixty percent of the unit's perimeter is in stands of
20 trees that are fifteen years or older; or

21 (c) At least ninety percent of the unit's perimeter is in stands of
22 trees that have survived on site a minimum of five years or, if less
23 than five years, have reached an average height of four feet.

24 (3) The requirements of subsections (1) and (2) of this section
25 shall apply to even-aged harvest methods and shall not apply to timber
26 harvest using uneven-aged harvest methods, or to timber harvesting to
27 salvage timber damaged by wind, disease, insects, or fire.

1 (4) In evaluating the perimeters of harvest units pursuant to
2 subsection (3) of this section, the department shall apply the
3 following criteria:

4 (a) In western Washington, a riparian management zone that is twice
5 the width with twice the tree count required by the board along Type 1,
6 2, or 3 waters will be considered as a thirty-year-old stand;

7 (b) In eastern Washington, a riparian management zone that is the
8 width required by the board will be considered as a thirty-year-old
9 stand;

10 (c) Designated upland management areas and areas within late
11 successional wildlife habitat established under section 401 of this act
12 will be considered as thirty-year-old stands;

13 (d) Lands in a shoreline of state-wide significance where harvest
14 is limited under RCW 90.58.150 will be considered as thirty-year-old
15 stands;

16 (e) A stand of trees other than those described in (a) through (d)
17 of this subsection will be considered a certain age class only if the
18 stand is at least three hundred feet wide;

19 (f) Forest lands subject to an approved application or a
20 notification for timber harvesting under this chapter will be
21 considered as if the timber harvesting operation proposed in the
22 application or notification were completed; and

23 (g) The portion of a perimeter consisting of land in uses other
24 than forest land, such as land in agricultural or residential use and
25 natural openings, and land owned by landowners other than the landowner
26 who has proposed the harvest unit at issue will not be considered in
27 making perimeter calculations.

28 NEW SECTION. **Sec. 305.** (1) Using the best scientific
29 information available, the board shall establish by rule a program for

1 protecting public resources from the cumulative effects of forest
2 practices through a system of screening, analysis and thresholds. The
3 program shall consist of:

4 (a) A screening process that will evaluate WRIAs to identify and
5 prioritize those discrete basins or WRIAs in which the cumulative
6 effects of forest practices are most likely to lead to concerns about
7 potential damage to public resources. The screening process shall not,
8 in and of itself, result in the classification of any forest practice;

9 (b) A process to analyze and measure the cumulative effects of
10 forest practices on public resources in a manner which identifies as
11 precisely as possible:

12 (i) The parts of the areas identified in which the cumulative
13 effects of forest practices are believed to be of concern;

14 (ii) The public resources at risk;

15 (iii) The key physical and biological processes through which those
16 public resources could be affected by forest practices. Such processes
17 include but are not limited to timber harvesting contributing to flood
18 risk through more rapid snow melt and forest practices contributing to
19 excessive sediments in spawning gravels; and

20 (iv) Ambient conditions affected by those physical and biological
21 processes to determine any disturbances to the public resources at risk
22 caused by forest practices.

23 (c) The methodology developed in (b) of this subsection shall be
24 made available to any person upon request;

25 (d) Thresholds for public resource protection that require specific
26 actions, including cessation of contributing forest practices and
27 contributing road use, if necessary. Such thresholds shall be refined
28 by the board based on, but not limited to, the analysis performed in
29 (b) of this subsection. The board shall establish a method by which the
30 department, in cooperation with state agencies, tribes, and other

1 interested parties, will recommend to the board two levels of
2 measurable thresholds. In establishing thresholds, the board will give
3 due consideration to natural occurrences, natural and existing
4 background conditions and variabilities, the public resources at risk,
5 the contributions of other land uses, and the purposes and policies of
6 this chapter;

7 (e) Actions to reduce or correct identified cumulative effects;

8 (f) A notification procedure to forest landowners likely to be
9 affected, interested parties, federally recognized Indian tribes, and
10 governmental agencies. Such procedures will be initiated when a
11 predetermined condition is detected that could lead to concerns about
12 the site-specific and cumulative effects on public resources;

13 (g) Provide for monitoring activities to assess the effectiveness
14 of this section; and

15 (h) Provide for response or adaptation to emerging scientific
16 knowledge and changing circumstances.

17 (2) The board shall ensure that the system of screening, analysis,
18 and thresholds developed under this section, requires that problems be
19 isolated and solutions applied on the smallest areas and consistent
20 with effective resource protection.

21 (3) Screening, analysis, and threshold criteria under this section,
22 may vary, as appropriate, by ecological region, and the specific
23 condition of the WRIA.

24 NEW SECTION. **Sec. 306.** (1) This section establishes a
25 monitoring system to assess the relationship between the rate of
26 harvest by even-aged harvest methods within a water resource inventory
27 area and the protection, conservation, and sustainability of public
28 resources over time.

1 (2) The board shall establish, by rule by May 31, 1992, in
2 accordance with this section, a system for monitoring the rate of even-
3 aged harvest methods by water resource inventory area. This system
4 shall include, but is not limited, to the following:

5 (a) Each landowner who harvests timber shall, on a quarterly basis,
6 report to the department on the number of acres harvested using even-
7 aged harvest methods in each water resource inventory area.

8 (b) If, during a calendar year, the acreage harvested by a
9 landowner using even-aged harvest methods in a water resource inventory
10 area reaches or exceeds four percent of that landowner's forest land in
11 the water resource inventory area, or five hundred acres in the water
12 resource inventory area, whichever is greater, the department shall
13 conduct a rate of harvest review of harvesting by that landowner in
14 that water resource inventory area. The purpose of the review is to
15 determine present and potential impacts, if any, of the landowner's
16 harvest activities on public resources in the water resource inventory
17 area.

18 (c) The department shall assemble a team of individuals having
19 specialized expertise to conduct the review. The team shall be
20 composed of resource specialists representing appropriate disciplines,
21 including, if available, resource staff from the department of
22 wildlife, the department of fisheries, the department of ecology,
23 federally recognized Indian tribes, and other interested parties.
24 Members of the team or any other interested persons may make
25 recommendations to the department for protection of public resources.
26 The department shall give substantial weight to their recommendations.
27 Once the need for a rate of harvest review is identified by the
28 department, the review must be completed within sixty days.

29 (d) The board shall establish by rule by May 31, 1992 standards and
30 procedures under which applications and notifications will be approved,

1 conditioned, or denied as necessary to protect public resources during
2 and following a review.

3 (3) The board shall require that the department report annually the
4 status of rate of harvest monitoring under this section. The reports
5 shall include:

6 (a) A summary of rate of harvest by water resources inventory areas
7 by all landowners;

8 (b) The number of rate of harvest reviews conducted and the
9 results; and

10 (c) Any other information considered to be significant in
11 understanding the status of rate of harvest.

12 NEW SECTION. Sec. 307. Based on four years of data, on or
13 before March 1, 1995, the board shall conduct a review of the rate of
14 harvest monitoring system.

15 (1) The board shall solicit evaluations of the system's capacity to
16 recognize and identify potential and actual public resource damage and
17 benefits from state agencies, counties, federally recognized Indian
18 tribes, environmental organizations, the forest industry, landowners,
19 and any other interested parties.

20 (2) The department shall provide a compilation and summary of the
21 annual reports required in section 306 of this act for the first four
22 years to the board.

23 (3) The board shall hold public hearings to receive comments from
24 the public regarding the monitoring and review system.

25 (4) The board shall review the system's capacity to recognize and
26 identify potential and actual damage and benefits to public resources.

27 (5) In addition, the board shall receive an evaluation from the
28 departments of community development and trade and economic development
29 on the consequences of the previous four years' harvest levels on:

1 Economic activity, community stability, forest land ownership patterns,
2 amount of forested land in the state, forest industry employment, and
3 investment in forest industry. The board shall recommend criteria for
4 evaluating these consequences to the departments of community
5 development and trade and economic development.

6 (6) The board shall review and evaluate the effectiveness of the
7 monitoring system and incorporate in rules any changes necessary to
8 improve the monitoring system operations.

9 (7) The board shall determine whether other requirements of this
10 chapter, including thresholds, clearcut size limits, perimeter
11 requirements, and other factors should be reviewed to determine their
12 overall effect on rate and location of harvest, and impact on public
13 resources.

14 (8) As a part of the report required in section 702 of this act,
15 the board shall describe and evaluate the effectiveness of this chapter
16 in protecting public resources.

17 PART IV

18 WILDLIFE HABITAT PROVISIONS

19 NEW SECTION. **Sec. 401.** The purpose of this section is to
20 provide the policies and processes to manage change in the type and
21 condition of habitat in the context of the managed forest over the next
22 ten years. These policies provide a framework for refining and
23 adapting the forest practice rules to reflect future understandings of
24 wildlife and forest management interactions.

25 (1) In addition to other rules adopted by the board under this
26 chapter, the board shall adopt rules consistent with the purposes and
27 policies of this chapter that protect late successional wildlife
28 habitats in a manner consistent with the principles of wildlife habitat

1 management, forest management, and landscape ecology. The rules shall
2 establish a process and priorities for developing late successional
3 wildlife habitat management plans, and provisions for their
4 implementation and enforcement. The board shall give priority to the
5 development of these plans for landowners owning more than two thousand
6 acres within a WRIA. These plans shall seek to accomplish the
7 following goals:

8 (a) Provide habitat for wildlife species closely associated with
9 late successional forest characteristics;

10 (b) Provide for landowner flexibility in developing management
11 plans; and

12 (c) Provide for adapting wildlife habitat management plans to
13 accommodate emerging scientific knowledge changes in the areas
14 described in subsection (3)(a) of this section and other changing
15 circumstances.

16 (2) The departments of natural resources and wildlife shall jointly
17 recommend to the board rules for establishing a process for developing
18 these plans. In developing those recommendations, the departments of
19 natural resources and wildlife shall work cooperatively with federally
20 recognized Indian tribes, forest landowners, the departments of
21 fisheries and ecology, and other interested parties. The board shall
22 give substantial weight to those recommendations.

23 At a minimum this process shall include:

24 (a) By May 31, 1992, the department and the department of wildlife
25 shall jointly identify wildlife habitat management objectives for late
26 successional habitat for each WRIA;

27 (b) The development of late successional wildlife habitat
28 management plans. The landowner may, with the assistance of the
29 departments of wildlife and natural resources, develop these plans
30 consistent with the objectives established pursuant to (a) of this

1 subsection. If a landowner chooses not to develop a plan, the
2 departments of wildlife and natural resources shall develop the plan;

3 (c) Use of expertise and data of the department of wildlife in
4 establishing wildlife habitat goals in the development of these plans;

5 (d) Opportunity to use additional information from federally
6 recognized Indian tribes, forest landowners, and other interested
7 parties in the development of these plans;

8 (e) A process for amending these plans to meet land management and
9 resource protection needs including boundary adjustments to reflect
10 changes in the areas described in subsection (3)(a) of this section;
11 and

12 (f) During the period in which these plans are being developed, the
13 department of wildlife and the department will work cooperatively with
14 landowners to develop mutually acceptable interim strategies to prevent
15 landowner hardships and protect wildlife values if agreed upon by the
16 parties. These interim strategies will continue until a plan is
17 complete.

18 (3) Ten percent of a forest landowner's forested land base within
19 a water resource inventory area shall be managed consistent with these
20 plans. The remainder of a landowner's forested land base in a WRIA
21 will, at the landowner's option, be managed primarily for commercial
22 timber production, so long as consistent with other statutory and
23 regulatory requirements.

24 (a) This ten percent shall include forested riparian management
25 zones, forested areas around wetlands and waters of the state, forest
26 upland management areas, forested areas donated or sold at less than
27 fifty percent of fair market value for conservation purposes, other
28 areas required to be managed as wildlife habitat, and areas that are
29 required to be left unharvested pursuant to other state and federal

1 statutory and regulatory requirements: PROVIDED, That nothing in this
2 section shall affect these statutory or regulatory requirements.

3 (b) On lands under even-aged management, late successional habitat
4 should be provided in corridors of connected systems concentrated
5 primarily on drainage systems. The need for a connected system is
6 reduced on lands under uneven-aged management. Since uneven-aged
7 management allows greater opportunity to create late successional
8 habitat, the board shall by rule allow additional opportunities for
9 harvest within the area managed under a late successional wildlife
10 habitat plan within a WRIA according to the amount of land managed
11 under uneven-aged management so long as consistent with the wildlife
12 objectives identified pursuant to subsection (2)(a) of this section.

13 (c) The board shall establish a procedure under which landowners
14 may submit to the department a wildlife habitat management plan for
15 lands in one or more WRIA which, if approved by the department in
16 cooperation with the department of wildlife and affected Indian tribes,
17 will substitute for the ten percent management requirement established
18 under subsection (3) of this section.

19 (d) Forest practices shall be permitted within the late
20 successional habitat areas subject to a wildlife habitat management
21 plan to:

22 (i) Provide reasonable access to areas outside the late
23 successional wildlife habitat management plan for commercial forest
24 management purposes and any other purposes permitted under applicable
25 land use regulations;

26 (ii) Protect against fire and disease outside the late successional
27 wildlife habitat management areas; and

28 (iii) Remove commercial timber in such a manner that provides or
29 creates late successional habitat characteristics.

1 (4) In approving, conditioning, or denying any forest practice
2 application or notification on lands covered by a wildlife habitat
3 management plan, the department shall give substantial weight to
4 applicable late successional wildlife habitat management plans
5 developed pursuant to this section.

6 (5) The board shall establish rules that:

7 (a) Provide for monitoring activities by the department to assess
8 the effectiveness of wildlife protection measures;

9 (b) Establish a process for encouraging informal conflict
10 resolution mechanisms to foster the cooperative development of late
11 successional wildlife habitat management plans.

12 (6) To provide additional wildlife habitat, the board shall adopt
13 rules requiring that snags, down logs, and merchantable green trees for
14 future snag recruitment be left in or adjacent to harvest units. There
15 shall be no requirement to leave green trees for snag recruitment on
16 lands within two thousand feet from the boundary of lands under the
17 wildlife habitat management plan. Such rules shall allow distribution
18 of snags, down logs, and recruitment trees in a manner consistent with
19 safety and fire protection statutes and rules and site-specific harvest
20 flexibility.

21 PART V

22 FOREST PRACTICES ON ISLANDS

23 NEW SECTION. **Sec. 501.** (1) The board shall establish rules
24 specifically related to forest practices on islands that protect the
25 unique characteristics of islands. The rules shall include, but are
26 not limited to:

27 (a) The protection of forested wetlands;

1 (b) The control and retention of adverse surface water drainage and
2 runoff which may result from forest practices;

3 (c) Methods of slash disposal; and

4 (d) The use of chemicals.

5 (2) On an island:

6 (a) A landowner shall not harvest by clearcut so that more than
7 forty contiguous acres of that landowner's forest land are in a
8 clearcut condition;

9 (b) Forest land harvested by clearcut remains in the clearcut
10 condition until it has reached canopy closure or it has been reforested
11 for at least ten years;

12 (c) Clearcut harvest units are contiguous unless separated by a
13 buffer at least two hundred feet wide that has reached canopy closure,
14 has been reforested for at least ten years, or is in a land use other
15 than timber production.

16 **Sec. 502.** RCW 90.58.150 and 1971 ex.s. c 286 s 15 are each amended
17 to read as follows:

18 With respect to timber situated within two hundred feet abutting
19 landward of the ordinary high water mark within shorelines of state-
20 wide significance, or within the shoreline of any island surrounded by
21 salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish,
22 Skagit, Whatcom, Island, and San Juan counties, the department or local
23 government shall allow only selective commercial timber cutting, so
24 that no more than thirty percent of the merchantable trees may be
25 harvested in any ten year period of time: PROVIDED, That other timber
26 harvesting methods may be permitted in those limited instances where
27 the topography, soil conditions or silviculture practices necessary for
28 regeneration render selective logging ecologically detrimental:
29 PROVIDED FURTHER, That clear cutting of timber which is solely

1 incidental to the preparation of land for other uses authorized by this
2 chapter may be permitted.

3 PART VI

4 MAINTAINING THE PRODUCTIVE TIMBER LAND

5 BASE--INCENTIVES TO LANDOWNERS

6 **Sec. 601.** RCW 4.24.210 and 1980 c 111 s 1 are each amended to read
7 as follows:

8 Any public or private landowners or others in lawful possession and
9 control of any lands whether designated resource, rural or urban, or
10 water areas or channels and lands adjacent to such areas or channels,
11 who allow members of the public to use them for the purposes of outdoor
12 recreation, which term includes, but is not limited to, the cutting,
13 gathering, and removing of firewood by private persons for their
14 personal use without purchasing the firewood from the landowner,
15 hunting, fishing, camping, picnicking, swimming, hiking, bicycling, the
16 riding of horses or other animals, clam digging, pleasure driving of
17 off-road vehicles, snowmobiles, and other vehicles, boating, nature
18 study, winter or water sports, viewing or enjoying historical,
19 archaeological, scenic, or scientific sites, without charging a fee of
20 any kind therefor, shall not be liable for unintentional injuries to
21 such users: PROVIDED, That any public or private landowner, or others
22 in lawful possession and control of the land, may charge a fee for the
23 outdoor recreational use of forest lands: PROVIDED FURTHER, That any
24 public or private landowner may charge an administrative fee of up to
25 ten dollars for the cutting, gathering, and removing of firewood from
26 the land: PROVIDED FURTHER, That nothing in this section shall prevent
27 the liability of such a landowner or others in lawful possession and
28 control for injuries sustained to users by reason of a known dangerous

1 artificial latent condition for which warning signs have not been
2 conspicuously posted: PROVIDED FURTHER, That nothing in RCW 4.24.200
3 and 4.24.210 limits or expands in any way the doctrine of attractive
4 nuisance: AND PROVIDED FURTHER, That the usage by members of the
5 public is permissive and does not support any claim of adverse
6 possession.

7 **Sec. 602.** RCW 7.48.300 and 1979 c 122 s 1 are each amended to read
8 as follows:

9 The legislature finds that agricultural activities conducted on
10 farmland and forest practices in urbanizing areas are often subjected
11 to nuisance lawsuits, and that such suits encourage and even force the
12 premature removal of the lands from agricultural uses and timber
13 production. It is therefore the purpose of RCW 7.48.300 through
14 7.48.310 and 7.48.905 to provide that agricultural activities conducted
15 on farmland and forest practices be protected from nuisance lawsuits.

16 **Sec. 603.** RCW 7.48.305 and 1979 c 122 s 2 are each amended to read
17 as follows:

18 Notwithstanding any other provision of this chapter, agricultural
19 activities conducted on farmland and forest practices, if consistent
20 with good agricultural and forest practices and established prior to
21 surrounding nonagricultural and nonforestry activities, are presumed
22 to be reasonable and do not constitute a nuisance unless the activity
23 has a substantial adverse effect on the public health and safety.

24 If ~~((that))~~ those agricultural ~~((activity is))~~ activities and
25 forest practices that are undertaken in conformity with ~~((federal,~~
26 ~~state, and local))~~ all applicable laws and ~~((regulations))~~ rules, ~~((it~~
27 ~~is))~~ the activities are presumed to be good agricultural and forest

1 practices (~~and~~) not adversely affecting the public health and safety
2 for purposes of this section and RCW 7.48.300.

3 **Sec. 604.** RCW 7.48.310 and 1979 c 122 s 3 are each amended to read
4 as follows:

5 As used in RCW 7.48.305:

6 (1) "Agricultural activity" includes, but is not limited to, the
7 growing or raising of horticultural and viticultural crops, berries,
8 poultry, livestock, grain, mint, hay, and dairy products.

9 (2) "Farmland" means land devoted primarily to the production, for
10 commercial purposes, of livestock or agricultural commodities.

11 (3) Forest practice means "forest practice" as defined in RCW
12 76.09.020(11).

13 **Sec. 605.** RCW 76.09.330 and 1987 c 95 s 7 are each amended to read
14 as follows:

15 The legislature hereby finds and declares that riparian ecosystems
16 on forest lands in addition to containing valuable timber resources,
17 provide benefits for wildlife, fish, and water quality. The
18 legislature further finds and declares that managing upland areas for
19 wildlife and leaving snags and green trees for future snag recruitment
20 provides benefits for wildlife. Forest landowners may be required or
21 may volunteer to leave trees standing in riparian and upland areas, and
22 to leave snags or green trees to benefit public resources. It is
23 recognized that these trees may blow down or fall into streams and that
24 organic debris may be allowed to remain in streams. This is beneficial
25 to riparian dependent and other wildlife species. Neither the
26 landowner nor the permitting entity shall (~~not~~) be held liable for
27 damages resulting from the leave trees falling from natural causes (~~in~~
28 ~~riparian areas~~) or from organic debris allowed to remain in streams.

1 **Sec. 606.** RCW 84.33.100 and 1983 c 3 s 224 are each amended to
2 read as follows:

3 As used in RCW 84.33.110 through 84.33.140 and sections 607 through
4 613 of this act:

5 (1) "Forest land" is synonymous with timberland and means all land
6 in any contiguous ownership of twenty or more acres which is primarily
7 devoted to and used for growing and harvesting timber and means the
8 land only.

9 (2) "Owner" means the party or parties having the fee interest in
10 land, except where land is subject to a real estate contract "owner"
11 means the contract vendee.

12 (3) "Local government" shall mean any city, town, county, sewer
13 district, water district, public utility district, port district,
14 irrigation district, flood control district, or any other municipal
15 corporation, quasi-municipal corporation, or other political
16 subdivision authorized to levy special benefit assessments for sanitary
17 or storm sewerage systems, domestic water supply or distribution
18 systems, or road construction or improvement purposes.

19 (4) "Local improvement district" shall mean any local improvement
20 district, utility local improvement district, local utility district,
21 road improvement district, or any similar unit created by a local
22 government for the purpose of levying special benefit assessments
23 against property specially benefited by improvements relating to such
24 districts.

25 (5) The term "average rate of inflation" shall mean the annual rate
26 of inflation as determined by the department of revenue averaged over
27 the period of time as provided in section 608 (1) and (2) of this act.
28 Such determination shall be published not later than January 1 of each
29 year for use in that assessment year.

1 (6) "Special benefit assessments" shall mean special assessments
2 levied or capable of being levied in any local improvement district or
3 otherwise levied or capable of being levied by a local government to
4 pay for all or part of the costs of a local improvement and which may
5 be levied only for the special benefits to be realized by property by
6 reason of that local improvement.

7 NEW SECTION. Sec. 607. (1) Any forest land which is designated
8 for classification pursuant to chapter 84.33 RCW at the earlier of the
9 times the legislative authority of a local government adopts a
10 resolution, ordinance, or legislative act (a) to create a local
11 improvement district, in which such land is included or would have been
12 included but for such classification designation, or (b) to approve or
13 confirm a final special benefit assessment roll relating to a sanitary
14 or storm sewerage system, domestic water supply or distribution system,
15 or road construction or improvement, which roll would have included
16 such land but for such classification designation, shall be exempt from
17 special benefit assessments or charges in lieu of assessment for such
18 purposes as long as that land remains in such classification, except as
19 otherwise provided in section 611 of this act.

20 (2) Whenever a local government creates a local improvement
21 district, the levying, collection, and enforcement of assessments shall
22 be in the manner and subject to the same procedures and limitations as
23 are provided pursuant to the law concerning the initiation and
24 formation of local improvement districts for the particular local
25 government. Notice of the creation of a local improvement district
26 that includes forest land shall be filed with the county assessor and
27 the legislative authority of the county in which such land is located.
28 The county assessor, upon receiving notice of the creation of such a
29 local improvement district, shall send a notice to the owner of the

1 forest lands listed on the tax rolls of the applicable county treasurer
2 of:

3 (a) The creation of the local improvement district;

4 (b) The exemption of that land from special benefit assessments;

5 (c) The fact that the forest land may become subject to the special
6 benefit assessments if the owner waives the exemption by filing a
7 notarized document with the governing body of the local government
8 creating the local improvement district before the confirmation of the
9 final special benefit assessment roll; and

10 (d) The potential liability, pursuant to section 608 of this act,
11 if the exemption is not waived and the land is subsequently removed
12 from the forest land status.

13 (3) When a local government approves and confirms a special benefit
14 assessment roll, from which forest land has been exempted pursuant to
15 this section, it shall file a notice of such action with the county
16 assessor and the legislative authority of the county in which such land
17 is located and with the treasurer of that local government, which
18 notice shall describe the action taken, the type of improvement
19 involved, the land exempted, and the amount of the special benefit
20 assessment which would have been levied against the land if it had not
21 been exempted. The filing of such notice with the county assessor and
22 the treasurer of that local government shall constitute constructive
23 notice to a purchaser or encumbrancer of the affected land, and every
24 person whose conveyance or encumbrance is subsequently executed or
25 subsequently recorded, that such exempt land is subject to the charges
26 provided in sections 608 and 609 of this act, if such land is withdrawn
27 or removed from its classification as forest land.

28 (4) The owner of the land exempted from special benefit assessments
29 pursuant to this section may waive that exemption by filing a notarized
30 document to that effect with the legislative authority of the local

1 government upon receiving notice from said local government concerning
2 the assessment roll hearing and before the local government confirms
3 the final special benefit assessment roll. A copy of that waiver shall
4 be filed by the local government with the county assessor, but the
5 failure of such filing shall not affect the waiver.

6 (5) Except to the extent provided in section 611 of this act, the
7 local government shall have no duty to furnish service from the
8 improvement financed by the special benefit assessment to such exempted
9 land.

10 NEW SECTION. **Sec. 608.** Whenever forest land has once been
11 exempted from special benefit assessments pursuant to section 607 of
12 this act, any withdrawal from classification or change in use from
13 forest land under chapter 84.33 RCW shall result in the following:

14 (1) If the bonds used to fund the improvement in the local
15 improvement district have not been completely retired, such land shall
16 immediately become liable for:

17 (a) The amount of the special benefit assessment listed in the
18 notice provided for in section 607 of this act; plus

19 (b) Interest on the amount determined in (a) of this subsection,
20 compounded annually at a rate equal to the average rate of inflation
21 from the time the initial notice is filed by the governmental entity
22 which created the local improvement district as provided in section 607
23 of this act to the time the owner withdraws such land from the
24 exemption category provided by this chapter; or

25 (2) If the bonds used to fund the improvement in the local
26 improvement district have been completely retired, such land shall
27 immediately become liable for:

28 (a) The amount of the special benefit assessment listed in the
29 notice provided for in section 607 of this act; plus

1 (b) Interest on the amount determined in (a) of this subsection
2 compounded annually at a rate equal to the average rate of inflation
3 from the time the initial notice is filed by the governmental entity
4 which created the local improvement district as provided in section 607
5 of this act, to the time the bonds used to fund the improvement have
6 been retired; plus

7 (c) Interest on the total amount determined in (a) and (b) of this
8 subsection at a simple per annum rate equal to the average rate of
9 inflation from the time the bonds used to fund the improvement have
10 been retired to the time the owner withdraws such lands from the
11 exemption category provided by this chapter;

12 (3) The amount payable pursuant to this section shall become due on
13 the date such land is withdrawn or removed from its forest land
14 classification and shall be a lien on the land prior and superior to
15 any other lien whatsoever except for the lien for general taxes, and
16 shall be enforceable in the same manner as the collection of special
17 benefit assessments are enforced by that local government.

18 NEW SECTION. **Sec. 609.** Whenever forest land is withdrawn or
19 removed from its forest land classification, the county assessor of the
20 county in which such land is located shall forthwith give written
21 notice of such withdrawal or removal to the local government or its
22 successor which had filed with the assessor the notice required by
23 section 607 of this act. Upon receipt of the notice from the assessor,
24 the local government shall mail a written statement to the owner of
25 such land for the amounts payable as provided in section 608 of this
26 act. Such amounts due shall be delinquent if not paid within one
27 hundred eighty days after the date of mailing of the statement, and
28 shall be subject to the same interest, penalties, lien priority, and
29 enforcement procedures that are applicable to delinquent assessments on

1 the assessment roll from which that land had been exempted, except that
2 the rate of interest charged shall not exceed the rate provided in
3 section 608 of this act.

4 NEW SECTION. **Sec. 610.** Payments collected pursuant to sections
5 608 and 609 of this act, or by enforcement procedures referred to
6 therein, after the payment of the expenses of their collection, shall
7 first be applied to the payment of general or special debt incurred to
8 finance the improvements related to the special benefit assessments,
9 and, if such debt is retired, then into the maintenance fund or general
10 fund of the governmental entity which created the local improvement
11 district, or its successor, for any of the following purposes: (1)
12 Redemption or servicing of outstanding obligations of the district; (2)
13 maintenance expenses of the district; or (3) construction or
14 acquisition of any facilities necessary to carry out the purpose of the
15 district.

16 NEW SECTION. **Sec. 611.** The department of revenue shall adopt
17 rules it shall deem necessary to implement RCW 84.33.100 and sections
18 607 through 613 of this act which shall include, but not be limited to,
19 procedures to determine the extent to which a portion of the land
20 otherwise exempt may be subject to a special benefit assessment for:
21 (1) The actual connection to the domestic water system or sewerage
22 facilities; (2) for access to the road improvement in relation to its
23 value as forest land as distinguished from its value under more
24 intensive uses; and (3) for such lands which benefit from or cause the
25 need for a local improvement district. The provision for limited
26 special benefit assessments shall not relieve such land from liability
27 for the amounts provided in sections 608 and 609 of this act when such
28 land is withdrawn or removed from its forest land classification.

1 NEW SECTION. **Sec. 612.** Whenever a portion of a parcel of land
2 which was classified as forest land pursuant to this chapter is
3 withdrawn from classification or there is a change in use, and such
4 land has been exempted from any benefit assessments pursuant to section
5 606 of this act, the previously exempt benefit assessments shall become
6 due on only that portion of the land which is withdrawn or changed.

7 NEW SECTION. **Sec. 613.** (1) Forest land on which the right to
8 future development has been acquired by any local government, the state
9 of Washington, or the United States government shall be exempt from
10 special benefit assessments in lieu of assessment for such purposes in
11 the same manner, and under the same liabilities for payment and
12 interest, as land classified under this chapter as forest land, for as
13 long as such classification applies.

14 (2) Any interest, development right, easement, covenant, or other
15 contractual right which effectively protects, preserves, maintains,
16 improves, restores, prevents the future nonforest use of, or otherwise
17 conserves forest land shall be exempt from special benefit assessments
18 as long as such development right or other such interest effectively
19 serves to prevent nonforest development of such land.

20 **Sec. 614.** RCW 84.34.300 and 1979 c 84 s 1 are each amended to read
21 as follows:

22 The legislature finds that farming, timber production, and the
23 related agricultural (~~industry~~) and forest industries have
24 historically been and currently are central factors in the economic and
25 social lifeblood of the state; that it is a fundamental policy of the
26 state to protect agricultural and timber lands as a major natural
27 resource in order to maintain a source to supply a wide range of
28 agricultural and forest products; and that the public interest in the

1 protection and stimulation of farming, timber production, and the
2 agricultural ((industry)) and forest industries is a basic element of
3 enhancing the economic viability of this state. The legislature
4 further finds that farmland and timber land in urbanizing areas ((is))
5 are often subjected to high levels of property taxation and benefit
6 assessment, and that such levels of taxation and assessment encourage
7 and even force the ((premature)) removal of such lands from
8 agricultural and forest uses. The legislature further finds that
9 because of this level of taxation and assessment, such farmland and
10 timber land in urbanizing areas ((is)) are either converted to
11 nonagricultural and nonforest uses when significant amounts of nearby
12 nonagricultural and nonforest area could be suitably used for such
13 nonagricultural and nonforest uses, or, much of this farmland and
14 timber land is left in an unused state. The legislature further finds
15 that with the approval by the voters of the Fifty-third Amendment to
16 the state Constitution, and with the enactment of chapter 84.34 RCW,
17 the owners of farmlands and timber lands were provided with an
18 opportunity to have such land valued on the basis of its current use
19 and not its "highest and best use" and that such current use valuation
20 is one mechanism to protect agricultural and timber lands. The
21 legislature further finds that despite this potential property tax
22 reduction, farmlands and timber lands in urbanized areas are still
23 subject to high levels of benefit assessments and continue to be
24 removed from farm and forest uses.

25 It is therefore the purpose of the legislature to establish, with
26 the enactment of RCW 84.34.300 through 84.34.380, another mechanism to
27 protect agricultural and timber land which creates an analogous system
28 of relief from certain benefit assessments for farm and agricultural
29 land and timber land. It is the intent of the legislature that special
30 benefit assessments not be imposed for the availability of sanitary

1 and/or storm sewerage service, or domestic water service, or for road
2 construction and/or improvement purposes on farm and agricultural lands
3 and timber lands which have been designated for current use
4 classification as farm and agricultural lands or timber lands until
5 such lands are withdrawn or removed from such classification or unless
6 such lands benefit from or cause the need for the local improvement
7 district.

8 The legislature finds, and it is the intent of RCW 84.34.300
9 through 84.34.380 and 84.34.922, that special benefit assessments for
10 the improvement or construction of sanitary and/or storm sewerage
11 service, or domestic water service, or certain road construction do not
12 generally benefit land which has been classified as open space farm and
13 agricultural land or timber land under the open space act, chapter
14 84.34 RCW, until such land is withdrawn from such classification or
15 such land is used for a more intense and nonagricultural use, or the
16 land is no longer used as timber land. The purpose of RCW 84.34.300
17 through 84.34.380 and 84.34.922 is to provide an exemption from certain
18 special benefit assessments which do not benefit timber land or open
19 space farm and agricultural land, and to provide the means for local
20 governmental entities to recover such assessments in current dollar
21 value in the event such land is no longer devoted to farming or timber
22 production under chapter 84.34 RCW. Where the owner of such land
23 chooses to make limited use of improvements related to special benefit
24 assessments, RCW 84.34.300 through 84.34.380 (~~and 84.34.922~~) provides
25 the means for the partial assessment on open space timber and farmland
26 to the extent the land is directly benefited by the improvement.

27 **Sec. 615.** RCW 84.34.310 and 1979 c 84 s 2 are each amended to read
28 as follows:

1 As used in RCW 84.34.300 through 84.34.380, unless a different
2 meaning is required, the words defined in this section shall have the
3 meanings indicated.

4 (1) "Farm and agricultural land" shall mean the same as defined in
5 RCW 84.34.020(2).

6 (2) "Timber land" shall mean the same as defined in RCW
7 84.34.020(3).

8 (3) "Local government" shall mean any city, town, county, sewer
9 district, water district, public utility district, port district,
10 irrigation district, flood control district, or any other municipal
11 corporation, quasi municipal corporation, or other political
12 subdivision authorized to levy special benefit assessments for sanitary
13 and/or storm sewerage systems, domestic water supply and/or
14 distribution systems, or road construction or improvement purposes.

15 (~~(3)~~) (4) "Local improvement district" shall mean any local
16 improvement district, utility local improvement district, local utility
17 district, road improvement district, or any similar unit created by a
18 local government for the purpose of levying special benefit assessments
19 against property specially benefited by improvements relating to such
20 districts.

21 (~~(4)~~) (5) "Owner" shall mean the same as defined in RCW
22 84.34.020(5) or the applicable statutes relating to special benefit
23 assessments.

24 (~~(5)~~) (6) The term "average rate of inflation" shall mean the
25 annual rate of inflation as determined by the department of revenue
26 averaged over the period of time as provided in RCW 84.34.330 (1) and
27 (2). Such determination shall be published not later than January 1 of
28 each year for use in that assessment year.

29 (~~(6)~~) (7) "Special benefit assessments" shall mean special
30 assessments levied or capable of being levied in any local improvement

1 district or otherwise levied or capable of being levied by a local
2 government to pay for all or part of the costs of a local improvement
3 and which may be levied only for the special benefits to be realized by
4 property by reason of that local improvement.

5 **Sec. 616.** RCW 84.34.320 and 1979 c 84 s 3 are each amended to read
6 as follows:

7 Any farm (~~and~~), agricultural, or timber land which is designated
8 for current use classification pursuant to chapter 84.34 RCW at the
9 earlier of the times the legislative authority of a local government
10 adopts a resolution, ordinance, or legislative act (1) to create a
11 local improvement district, in which such land is included or would
12 have been included but for such classification designation, or (2) to
13 approve or confirm a final special benefit assessment roll relating to
14 a sanitary and/or storm sewerage system, domestic water supply and/or
15 distribution system, or road construction and/or improvement, which
16 roll would have included such land but for such classification
17 designation, shall be exempt from special benefit assessments or
18 charges in lieu of assessment for such purposes as long as that land
19 remains in such classification, except as otherwise provided in RCW
20 84.34.360.

21 Whenever a local government creates a local improvement district,
22 the levying, collection and enforcement of assessments shall be in the
23 manner and subject to the same procedures and limitations as are
24 provided pursuant to the law concerning the initiation and formation of
25 local improvement districts for the particular local government.
26 Notice of the creation of a local improvement district that includes
27 farm (~~and~~), agricultural, or timber land shall be filed with the
28 county assessor and the legislative authority of the county in which
29 such land is located. The county assessor, upon receiving notice of

1 the creation of such a local improvement district, shall send a notice
2 to the owner of the farm ((and)), agricultural, or timber lands listed
3 on the tax rolls of the applicable county treasurer of: (1) the
4 creation of the local improvement district; (2) the exemption of that
5 land from special benefit assessments; (3) the fact that the farm
6 ((and)), agricultural, or timber land may become subject to the special
7 benefit assessments if the owner waives the exemption by filing a
8 notarized document with the governing body of the local government
9 creating the local improvement district before the confirmation of the
10 final special benefit assessment roll; and (4) the potential liability,
11 pursuant to RCW 84.34.330, if the exemption is not waived and the land
12 is subsequently removed from the farm ((and)), agricultural, or timber
13 land status. When a local government approves and confirms a special
14 benefit assessment roll, from which farm ((and)), agricultural, or
15 timber land has been exempted pursuant to this section, it shall file
16 a notice of such action with the county assessor and the legislative
17 authority of the county in which such land is located and with the
18 treasurer of that local government, which notice shall describe the
19 action taken, the type of improvement involved, the land exempted, and
20 the amount of the special benefit assessment which would have been
21 levied against the land if it had not been exempted. The filing of
22 such notice with the county assessor and the treasurer of that local
23 government shall constitute constructive notice to a purchaser or
24 encumbrancer of the affected land, and every person whose conveyance or
25 encumbrance is subsequently executed or subsequently recorded, that
26 such exempt land is subject to the charges provided in RCW 84.34.330
27 and 84.34.340 if such land is withdrawn or removed from its current use
28 classification as farm, agricultural, or timber land.

29 The owner of the land exempted from special benefit assessments
30 pursuant to this section may waive that exemption by filing a notarized

1 document to that effect with the legislative authority of the local
2 government upon receiving notice from said local government concerning
3 the assessment roll hearing and before the local government confirms
4 the final special benefit assessment roll. A copy of that waiver shall
5 be filed by the local government with the county assessor, but the
6 failure of such filing shall not affect the waiver.

7 Except to the extent provided in RCW 84.34.360, the local
8 government shall have no duty to furnish service from the improvement
9 financed by the special benefit assessment to such exempted land.

10 **Sec. 617.** RCW 84.34.330 and 1979 c 84 s 4 are each amended to read
11 as follows:

12 Whenever farm ~~((and))~~, agricultural, or timber land has once been
13 exempted from special benefit assessments pursuant to RCW 84.34.320,
14 any withdrawal from classification or change in use from farm ~~((and))~~,
15 agricultural, or timber land under chapter 84.34 RCW shall result in
16 the following:

17 (1) If the bonds used to fund the improvement in the local
18 improvement district have not been completely retired, such land shall
19 immediately become liable for: (a) The amount of the special benefit
20 assessment listed in the notice provided for in RCW 84.34.320; plus (b)
21 interest on the amount determined in (1)(a) of this section, compounded
22 annually at a rate equal to the average rate of inflation from the time
23 the initial notice is filed by the governmental entity which created
24 the local improvement district as provided in RCW 84.34.320 to the time
25 the owner withdraws such land from the exemption category provided by
26 this chapter; or

27 (2) If the bonds used to fund the improvement in the local
28 improvement district have been completely retired, such land shall
29 immediately become liable for: (a) The amount of the special benefit

1 assessment listed in the notice provided for in RCW 84.34.320; plus (b)
2 interest on the amount determined in (2)(a) of this section compounded
3 annually at a rate equal to the average rate of inflation from the time
4 the initial notice is filed by the governmental entity which created
5 the local improvement district as provided in RCW 84.34.320, to the
6 time the bonds used to fund the improvement have been retired; plus (c)
7 interest on the total amount determined in (2) (a) and (b) of this
8 section at a simple per annum rate equal to the average rate of
9 inflation from the time the bonds used to fund the improvement have
10 been retired to the time the owner withdraws such lands from the
11 exemption category provided by this chapter.

12 (3) The amount payable pursuant to this section shall become due on
13 the date such land is withdrawn or removed from its current use or
14 timber land classification and shall be a lien on the land prior and
15 superior to any other lien whatsoever except for the lien for general
16 taxes, and shall be enforceable in the same manner as the collection of
17 special benefit assessments are enforced by that local government.

18 **Sec. 618.** RCW 84.34.340 and 1979 c 84 s 5 are each amended to read
19 as follows:

20 Whenever farm (~~and~~), agricultural, or timber land is withdrawn or
21 removed from its current use classification as farm (~~and~~),
22 agricultural, or timber land, the county assessor of the county in
23 which such land is located shall forthwith give written notice of such
24 withdrawal or removal to the local government or its successor which
25 had filed with the assessor the notice required by RCW 84.34.320. Upon
26 receipt of the notice from the assessor, the local government shall
27 mail a written statement to the owner of such land for the amounts
28 payable as provided in RCW 84.34.330. Such amounts due shall be
29 delinquent if not paid within one hundred and eighty days after the

1 date of mailing of the statement, and shall be subject to the same
2 interest, penalties, lien priority, and enforcement procedures that are
3 applicable to delinquent assessments on the assessment roll from which
4 that land had been exempted, except that the rate of interest charged
5 shall not exceed the rate provided in RCW 84.34.330.

6 **Sec. 619.** RCW 84.34.360 and 1979 c 84 s 7 are each amended to read
7 as follows:

8 (~~Within ninety days after June 7, 1979,~~) The department of
9 revenue shall adopt rules it shall deem necessary to implement RCW
10 84.34.300 through 84.34.380 which shall include, but not be limited to,
11 procedures to determine the extent to which a portion of the land
12 otherwise exempt may be subject to a special benefit assessment for the
13 actual connection to the domestic water system or sewerage facilities,
14 and further to determine the extent to which all or a portion of such
15 land may be subject to a special benefit assessment for access to the
16 road improvement in relation to its value as farm ~~((and))~~,
17 agricultural, or timber land as distinguished from its value under more
18 intensive uses. The provision for limited special benefit assessments
19 shall not relieve such land from liability for the amounts provided in
20 RCW 84.34.330 and 84.34.340 when such land is withdrawn or removed from
21 its current use classification as farm ~~((and))~~, agricultural, or timber
22 land.

23 **Sec. 620.** RCW 84.34.370 and 1979 c 84 s 8 are each amended to read
24 as follows:

25 Whenever a portion of a parcel of land which was classified as farm
26 ~~((and))~~, agricultural, or timber land pursuant to this chapter is
27 withdrawn from classification or there is a change in use, and such
28 land has been exempted from any benefit assessments pursuant to RCW

1 84.34.320, the previously exempt benefit assessments shall become due
2 on only that portion of the land which is withdrawn or changed.

3 **Sec. 621.** RCW 84.34.380 and 1979 c 84 s 9 are each amended to read
4 as follows:

5 Farm (~~and~~), agricultural, or timber land on which the right to
6 future development has been acquired by any local government, the state
7 of Washington, or the United States government shall be exempt from
8 special benefit assessments in lieu of assessment for such purposes in
9 the same manner, and under the same liabilities for payment and
10 interest, as land classified under this chapter as farm (~~and~~),
11 agricultural, or timber land, for as long as such classification
12 applies.

13 Any interest, development right, easement, covenant, or other
14 contractual right which effectively protects, preserves, maintains,
15 improves, restores, prevents the future nonagricultural or nonforest
16 use of, or otherwise conserves farm (~~and~~), agricultural, or timber
17 land shall be exempt from special benefit assessments as long as such
18 development right or other such interest effectively serves to prevent
19 nonagricultural or nonforest development of such land.

20 NEW SECTION. **Sec. 622.** Nothing in RCW 84.34.300 through
21 84.34.340 or RCW 84.34.360 through 84.34.380 shall amend the provisions
22 of chapter 79.44 RCW.

23 NEW SECTION. **Sec. 623.** A new section is added to chapter 82.45
24 RCW to read as follows:

25 It is the intent of this section to foster the assemblage or
26 consolidation of forest land and to encourage long-term commitment to
27 timber production.

1 (1) When the real estate excise tax is due upon the sale of forest
2 land classified under chapter 84.33 RCW or open space timber land
3 classified under RCW 84.34.020(3) and the buyer elects to continue the
4 use, the payment of all or some of the state portion of the real estate
5 excise tax as provided in RCW 82.45.060 may be deferred until the land
6 is removed from the forest land classification or open space
7 classification.

8 (a) Upon the removal from the classification as provided in RCW
9 84.34.070, 84.34.108, 84.33.140, and 84.33.145, the owner at time of
10 removal shall remit all amounts which were deferred during the previous
11 ten-year period, plus interest, within thirty days of removal.

12 (b) All amounts deferred upon the sale of the property under this
13 section shall become a specific lien on the property from the time of
14 removal from the classification, and such lien may be enforced in the
15 manner prescribed for the foreclosure of mortgages.

16 (c) The penalty provisions of RCW 82.45.100 shall apply to amounts
17 due following removal from the classification.

18 (2) The agreement of the buyer to continue the use of the land as
19 forest land under chapter 84.33 RCW or as open space timber land under
20 chapter 82.34 RCW shall also be an agreement to pay the amount due
21 under this section if the buyer is the owner of the property when it is
22 removed from the classification.

23 (3) The department of revenue shall adopt such rules as are
24 necessary for the administration of this section.

25 PART VII
26 FOREST PRACTICES PROGRAM ADMINISTRATION
27 AND MISCELLANEOUS PROVISIONS

1 NEW SECTION. **Sec. 701.** Prior to the adoption of rules necessary
2 for the implementation of this act, the department pursuant to board
3 direction shall have the authority to regulate forest practices and
4 approve applications on terms and conditions consistent with this act
5 until applicable forest practices rules are in effect.

6 NEW SECTION. **Sec. 702.** A new section is added to chapter 76.09
7 RCW to read as follows:

8 (1) The board shall, every ten years, commencing August 1, 2001,
9 make a comprehensive written report to the legislature and the governor
10 recommending changes, if necessary, to this chapter. In preparing this
11 report, the board shall be cognizant of and emphasize the need to
12 maintain stability in the laws governing forest practices. In
13 preparing this report the board shall consider:

14 (a) An assessment of the effectiveness of the 1991 act on
15 sustainable forestry;

16 (b) The pattern and subject matter of appeals to the appeals board;

17 (c) Input from the public, federally recognized Indian tribes,
18 state agencies, counties and forest landowners;

19 (d) The adequacy of funding; and

20 (e) Adaptive management through monitoring, evaluation, and
21 research.

22 (2) The legislature recognizes that it will take a full decade to
23 fully evaluate the effectiveness of the 1991 act on sustainable
24 forestry. However, the board shall keep the legislature fully informed
25 on the status and implementation of this act by way of an interim
26 report at five years.

27 **Sec. 703.** RCW 76.09.240 and 1975 1st ex.s. c 200 s 11 are each
28 amended to read as follows:

1 No county, city, municipality, or other local or regional
2 governmental entity shall adopt or enforce any law, ordinance, or
3 (~~regulation~~) rule pertaining to forest practices, except that to the
4 extent otherwise permitted by law, such entities may exercise any:

5 (1) Land use planning or zoning authority: PROVIDED, That exercise
6 of such authority may regulate forest practices only: (a) Where the
7 application submitted under RCW 76.09.060 as now or hereafter amended
8 indicates that the lands will be converted to a use other than
9 commercial timber production; or (b) pursuant to RCW 76.09.070, on
10 lands which (~~have been platted after January 1, 1960~~) may not be
11 reforested because of the likelihood of future conversion to a use
12 incompatible with long-term commercial timber production within a ten-
13 year period: PROVIDED, That no permit system solely for forest
14 practices shall be allowed; that any additional or more stringent
15 (~~regulations~~) rules shall not be inconsistent with the forest
16 practices (~~regulations~~) rules enacted under this chapter; and such
17 local (~~regulations~~) rules shall not unreasonably prevent timber
18 harvesting;

19 (2) Taxing powers;

20 (3) Regulatory authority with respect to public health; and

21 (4) Authority granted by chapter 90.58 RCW, the "Shoreline
22 Management Act of 1971" (~~, except that in relation to "shorelines" as~~
23 ~~defined in RCW 90.58.030, the following shall apply:~~

24 (~~a) The forest practice regulations adopted pursuant to this~~
25 ~~chapter shall be the sole rules applicable to the performance of forest~~
26 ~~practices, and enforcement thereof shall be solely as provided in~~
27 ~~chapter 76.09 RCW;~~

28 (~~b) As to that road construction which constitutes a substantial~~
29 ~~development, no permit shall be required under chapter 90.58 RCW for~~
30 ~~the construction of up to five hundred feet of one and only one road or~~

1 segment of a road provided such road does not enter the shoreline more
2 than once. Such exemption from said permit requirements shall be
3 limited to a single road or road segment for each forest practice and
4 such road construction shall be subject to the requirements of chapter
5 76.09 RCW and regulations adopted pursuant thereto and to the
6 prohibitions or restrictions of any master program in effect under the
7 provisions of chapter 90.58 RCW. Nothing in this subsection shall add
8 to or diminish the authority of the shoreline management act regarding
9 road construction except as specifically provided herein. The
10 provisions of this subsection shall not relate to any road which
11 crosses over or through a stream, lake, or other water body subject to
12 chapter 90.58 RCW;

13 (c) Nothing in this section shall create, add to, or diminish the
14 authority of local government to prohibit or restrict forest practices
15 within the shorelines through master programs adopted and approved
16 pursuant to chapter 90.58 RCW except as provided in (a) and (b) above.

17 Any powers granted by chapter 90.58 RCW pertaining to forest
18 practices, as amended herein, are expressly limited to lands located
19 within "shorelines of the state" as defined in RCW 90.58.030)).

20 **Sec. 704.** RCW 76.09.170 and 1975 1st ex.s. c 200 s 9 are each
21 amended to read as follows:

22 Every person who fails to comply with any provision of RCW
23 76.09.010 through 76.09.280 as now or hereafter amended or of the
24 forest practices ((regulations)) rules shall be subject to a civil
25 penalty ((in an amount of not more than five hundred dollars)) for
26 every such violation. No civil penalty shall exceed ten thousand
27 dollars per violation. The board shall encourage the department to
28 utilize civil penalties where appropriate and shall establish by rule
29 the factors to be considered by the department in imposing civil

1 penalties. Each and every such violation shall be a separate and
2 distinct offense. In case of a failure to comply with a notice
3 pursuant to RCW 76.09.090 as now or hereafter amended or a stop work
4 order, every day's continuance shall be a separate and distinct
5 violation. Every person who through an act of commission or omission
6 procures, aids or abets in the violation shall be considered to have
7 violated the provisions of this section and shall be subject to the
8 penalty herein provided for: PROVIDED, That no penalty shall be
9 imposed under this section upon any governmental official, an employee
10 of any governmental department, agency, or entity, or a member of any
11 board or advisory committee created by this chapter for any act or
12 omission in his duties in the administration of this chapter or of any
13 (~~regulation~~) rule promulgated thereunder.

14 The penalty herein provided for shall be imposed by a notice in
15 writing, either by certified mail with return receipt requested or by
16 personal service, to the person incurring the same from the department
17 of natural resources describing the violation with reasonable
18 particularity. Within fifteen days after the notice is received, the
19 person incurring the penalty may apply in writing to the department for
20 the remission or mitigation of such penalty. Upon receipt of the
21 application, that department may remit or mitigate the penalty upon
22 whatever terms that department in its discretion deems proper, provided
23 the department deems such remission or mitigation to be in the best
24 interests of carrying out the purposes of this chapter. The department
25 of natural resources shall have authority to ascertain the facts
26 regarding all such applications in such reasonable manner and under
27 such (~~regulations~~) rules as it may deem proper.

28 Any person incurring any penalty hereunder may appeal the same to
29 the forest practices appeals board.

1 Such appeals shall be filed within thirty days of receipt of notice
2 imposing any penalty unless an application for remission or mitigation
3 is made to the department. When such an application for remission or
4 mitigation is made, such appeals shall be filed within thirty days of
5 receipt of notice from the department setting forth the disposition of
6 the application.

7 Any penalty imposed hereunder shall become due and payable thirty
8 days after receipt of a notice imposing the same unless application for
9 remission or mitigation is made or an appeal is filed. When such an
10 application for remission or mitigation is made, any penalty incurred
11 hereunder shall become due and payable thirty days after receipt of
12 notice setting forth the disposition of such application unless an
13 appeal is filed from such disposition. Whenever an appeal of any
14 penalty incurred hereunder is filed, the penalty shall become due and
15 payable only upon completion of all review proceedings and the issuance
16 of a final decision confirming the penalty in whole or in part.

17 If the amount of any penalty is not paid to the department within
18 thirty days after it becomes due and payable, the attorney general,
19 upon the request of the department, shall bring an action in the name
20 of the state of Washington in the superior court of Thurston county or
21 of any county in which such violator may do business, to recover such
22 penalty. In all such actions the procedure and rules of evidence shall
23 be the same as an ordinary civil action except as otherwise in this
24 chapter provided.

25 **Sec. 705.** RCW 76.09.180 and 1988 c 36 s 48 are each amended to
26 read as follows:

27 All penalties received or recovered by state agency action for
28 violations as prescribed in RCW 76.09.170 shall be deposited in the
29 (~~state general fund~~) corrective action account established in section

1 802 of this act. All (~~such~~) penalties recovered as a result of local
2 government action pursuant to RCW 76.09.140(2) shall be deposited in
3 the local government general fund. Any funds recovered as
4 reimbursement for damages pursuant to RCW 76.09.080 and 76.09.090 shall
5 be transferred to that agency with jurisdiction over the public
6 resource damaged, including but not limited to political subdivisions,
7 the department of wildlife, the department of fisheries, the department
8 of ecology, the department of natural resources, or any other
9 department that may be so designated: PROVIDED, That nothing herein
10 shall be construed to affect the provisions of RCW 90.48.142.

11 **Sec. 706.** RCW 76.09.230 and 1989 c 175 s 165 are each amended to
12 read as follows:

13 (1) In all appeals filed with the appeals board, the party filing
14 the first or initial paper in the action shall pay, at the time the
15 paper is filed, a fee of one hundred dollars. All filing fees under
16 this section shall be deposited in the state general fund.

17 (2) In all appeals over which the appeals board has jurisdiction,
18 a party taking an appeal may elect either a formal or an informal
19 hearing, unless such party has had an informal hearing with the
20 department. Such election shall be made according to the rules of
21 practice and procedure to be promulgated by the appeals board. In the
22 event that appeals are taken from the same decision, order, or
23 determination, as the case may be, by different parties and only one of
24 such parties elects a formal hearing, a formal hearing shall be
25 granted.

26 (~~(2)~~) (3) In all appeals over which the appeals board has
27 jurisdiction, upon request of one or more parties and with the consent
28 of all parties, the appeals board shall promptly schedule a conference
29 for the purpose of attempting to mediate the case. The mediation

1 conference shall be held prior to the hearing on not less than seven
2 days' advance written notice to all parties. All other proceedings
3 pertaining to the appeal shall be stayed until completion of mediation,
4 which shall continue so long as all parties consent: PROVIDED, That
5 this shall not prevent the appeals board from deciding motions filed by
6 the parties while mediation is ongoing: PROVIDED, FURTHER, That
7 discovery may be conducted while mediation is ongoing if agreed to by
8 all parties. Mediation shall be conducted by an administrative appeals
9 judge or other duly authorized agent of the appeals board who has
10 received training in dispute resolution techniques or has a
11 demonstrated history of successfully resolving disputes, as determined
12 by the appeals board. A person who mediates in a particular appeal
13 shall not participate in a hearing on that appeal or in writing the
14 decision and order in the appeal. Documentary and other physical
15 evidence presented and evidence of conduct or statements made during
16 the course of mediation shall be treated by the mediator and the
17 parties in a confidential manner and shall not be admissible in
18 subsequent proceedings in the appeal except in accordance with the
19 provisions of the Washington Rules of Evidence pertaining to compromise
20 negotiations.

21 (4) In all appeals the appeals board shall have all powers relating
22 to administration of oaths, issuance of subpoenas, and taking of
23 depositions, but such powers shall be exercised in conformity with
24 chapter 34.05 RCW.

25 ~~((3))~~ (5) In all appeals involving formal hearing the appeals
26 board, and each member thereof, shall be subject to all duties imposed
27 upon and shall have all powers granted to, an agency by those
28 provisions of chapter 34.05 RCW relating to adjudicative proceedings.

29 ~~((4))~~ (6) All proceedings, including both formal and informal
30 hearings, before the appeals board or any of its members shall be

1 conducted in accordance with such rules of practice and procedure as
2 the board may prescribe. The appeals board shall publish such rules
3 and arrange for the reasonable distribution thereof.

4 ~~((+5))~~ (7) Judicial review of a decision of the appeals board
5 shall be de novo except when the decision has been rendered pursuant to
6 the formal hearing, in which event judicial review may be obtained only
7 pursuant to RCW 34.05.510 through 34.05.598.

8 **Sec. 707.** RCW 76.09.080 and 1989 c 175 s 163 are each amended to
9 read as follows:

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

13 (a) There is any violation of the provisions of this chapter or the
14 forest practices ~~((regulations))~~ rules; or

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

16 (c) Immediate action is necessary to prevent continuation of or to
17 avoid material damage to a public resource.

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

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

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

23 (c) The specific course of action needed to correct such violation
24 or deviation or to prevent damage and to correct and/or compensate for
25 damage to public resources which has resulted from any violation,
26 unauthorized deviation, or willful or negligent disregard for potential
27 damage to a public resource; and/or those courses of action necessary
28 to prevent continuing damage to public resources where the damage is

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

3 (d) The right of the operator to a hearing before the appeals
4 board.

5 The department shall immediately file a copy of such order with the
6 appeals board and mail a copy thereof to the timber owner and forest
7 landowner at the addresses shown on the application. Within fifteen
8 days after service of the stop work order on the operator, the
9 operator, timber owner, or forest landowner may commence an appeal to
10 the appeals board ((within fifteen days after service upon the
11 operator)) by filing a request for the same with the appeals board and
12 a copy of the request with the department. If such appeal is
13 commenced, a hearing shall be held not more than twenty days after
14 copies of the notice of appeal were filed with the appeals board:
15 PROVIDED, That if a mediation conference is held pursuant to RCW
16 76.09.230(3) RCW, the date for the hearing shall be extended to not
17 more than twenty days after the completion of the mediation conference.
18 Such proceeding shall be an adjudicative proceeding within the meaning
19 of chapter 34.05 RCW, the Administrative Procedure Act. The operator
20 shall comply with the order of the department immediately upon being
21 served, but the appeals board if requested shall have authority to
22 continue or discontinue in whole or in part the order of the department
23 under such conditions as it may impose pending the outcome of the
24 proceeding.

25 **Sec. 708.** RCW 76.04.005 and 1986 c 100 s 1 are each amended to
26 read as follows:

27 As used in this chapter, the following terms have the meanings
28 indicated unless the context clearly requires otherwise.

1 (1) "Additional fire hazard" means a condition existing on any land
2 in the state covered wholly or in part by forest debris which is likely
3 to further the spread of fire and thereby endanger life or property.
4 The term "additional fire hazard" does not include green trees or snags
5 left standing in upland or riparian areas under the provisions of RCW
6 76.04.465 or chapter 76.09 RCW.

7 (2) "Closed season" means the period between April 15 and October
8 15, unless the department designates different dates because of
9 prevailing fire weather conditions.

10 (3) "Department" means the department of natural resources, or its
11 authorized representatives, as defined in chapter 43.30 RCW.

12 (4) "Department protected lands" means all lands subject to the
13 forest protection assessment under RCW 76.04.610 or covered under
14 contract or agreement pursuant to RCW 76.04.135 by the department.

15 (5) "Emergency fire costs" means those costs incurred or approved
16 by the department for emergency forest fire suppression, including the
17 employment of personnel, rental of equipment, and purchase of supplies
18 over and above costs regularly budgeted and provided for nonemergency
19 fire expenses for the biennium in which the costs occur.

20 (6) "Forest debris" includes forest slash, chips, and any other
21 vegetative residue resulting from activities on forest land.

22 (7) "Forest fire service" includes all wardens, rangers, and other
23 persons employed especially for preventing or fighting forest fires.

24 (8) "Forest land" means any unimproved lands which have enough
25 trees, standing or down, or flammable material, to constitute in the
26 judgment of the department, a fire menace to life or property.
27 Sagebrush and grass areas east of the summit of the Cascade mountains
28 may be considered forest lands when such areas are adjacent to or
29 intermingled with areas supporting tree growth. Forest land, for
30 protection purposes, does not include structures.

1 (9) "Forest landowner," "owner of forest land," "landowner," or
2 "owner" means the owner or the person in possession of any public or
3 private forest land.

4 (10) "Forest material" means forest slash, chips, timber, standing
5 or down, or other vegetation.

6 (11) "Landowner operation" means every activity, and supporting
7 activities, of a forest landowner and the landowner's agents,
8 employees, or independent contractors or permittees in the management
9 and use of forest land subject to the forest protection assessment
10 under RCW 76.04.610 for the primary benefit of the owner. The term
11 includes, but is not limited to, the growing and harvesting of forest
12 products, the development of transportation systems, the utilization of
13 minerals or other natural resources, and the clearing of land. The
14 term does not include recreational and/or residential activities not
15 associated with these enumerated activities.

16 (12) "Participating landowner" means an owner of forest land whose
17 land is subject to the forest protection assessment under RCW
18 76.04.610.

19 (13) "Slash" means organic forest debris such as tree tops, limbs,
20 brush, and other dead flammable material remaining on forest land as a
21 result of a landowner operation.

22 (14) "Slash burning" means the planned and controlled burning of
23 forest debris on forest lands by broadcast burning, underburning, pile
24 burning, or other means, for the purposes of silviculture, hazard
25 abatement, or reduction and prevention or elimination of a fire hazard.

26 (15) "Suppression" means all activities involved in the containment
27 and control of forest fires, including the patrolling thereof until
28 such fires are extinguished or considered by the department to pose no
29 further threat to life or property.

1 (16) "Unimproved lands" means those lands that will support grass,
2 brush and tree growth, or other flammable material when such lands are
3 not cleared or cultivated and, in the opinion of the department, are a
4 fire menace to life and property.

5 PART VIII

6 FUNDING AND APPROPRIATIONS

7 NEW SECTION. **Sec. 801.** A new section is added to chapter 76.01
8 RCW to read as follows:

9 The department of natural resources shall establish a program to
10 provide grants to general purpose local governments, federally
11 recognized Indian tribes, and other eligible entities for participation
12 in cooperative resource management programs.

13 NEW SECTION. **Sec. 802.** The corrective action account is created
14 in the custody of the state treasurer. All receipts from RCW
15 76.09.120, 76.09.130, and 76.09.170 shall be deposited in the fund.
16 Expenditures from the fund may be used by the department only for the
17 purposes of undertaking and completing departmental action authorized
18 by RCW 76.09.120 or 76.09.130. Only the commissioner of public lands
19 or the commissioner's designee may authorize expenditure from the fund.
20 The fund is subject to allotment procedures under chapter 43.88 RCW,
21 but no appropriation is required for expenditure.

22 NEW SECTION. **Sec. 803.** There is appropriated from the general
23 fund to the department of natural resources, for the biennium ending
24 June 30, 1993, the sum of five hundred thousand dollars, or as much
25 thereof as may be necessary, for the purposes of section 802 of this
26 act.

1 NEW SECTION. **Sec. 804.** There is appropriated from the general
2 fund to the department of natural resources, for the biennium ending
3 June 30, 1993, the sum of one hundred thousand dollars, or as much
4 thereof as may be necessary, for the purposes of developing, in
5 consultation with Indian tribes, a cross-cultural training program to
6 be implemented on a regional basis.

7 NEW SECTION. **Sec. 805.** The departments of fisheries and
8 wildlife shall jointly establish a program to provide grants for
9 restoration of fish and wildlife habitat. Grant applications will be
10 evaluated through the cooperative monitoring, evaluation, and research
11 program. Recipients of these grants may include, but are not limited
12 to, federally recognized Indian tribes, state fish and wildlife
13 agencies, and volunteer cooperative fish enhancement groups, which
14 provide for the restoration of fish and wildlife habitat on forest
15 land. The departments of fisheries and wildlife shall jointly adopt
16 rules for the evaluation of these projects.

17 NEW SECTION. **Sec. 806.** There is appropriated from the general
18 fund two hundred fifty thousand dollars, or as much thereof as may be
19 necessary, to the department of fisheries and two hundred fifty
20 thousand dollars, or as much thereof as may be necessary, to the
21 department of wildlife, for the biennium ending June 30, 1993, for the
22 purposes of section 805 of this act.

23 NEW SECTION. **Sec. 807.** There is appropriated from the general
24 fund to the department of natural resources, for the biennium ending
25 June 30, 1993, the sum of one million five hundred thousand dollars, or
26 as much thereof as may be necessary, for the purposes of expanding the
27 department's geographic information system to more efficiently

1 implement the provisions of chapter 76.09 RCW and to integrate
2 information on forest resources including, but not limited to: Forest
3 harvest inventory, removal, regeneration, soils, water quality,
4 fisheries, and wildlife.

5 NEW SECTION. **Sec. 808.** There is appropriated from the general
6 fund to the department of natural resources, for the biennium ending
7 June 30, 1993, the sum of one million seven hundred thousand dollars,
8 or as much thereof as may be necessary, for the purposes of developing
9 and implementing an electronic processing and analysis system for
10 forest practices applications and permits, to be fully integrated with
11 the forest resources geographic information system.

12 NEW SECTION. **Sec. 809.** There is appropriated from the general
13 fund to the department of natural resources, for the biennium ending
14 June 30, 1993, the sum of two hundred thousand dollars, or as much
15 thereof as may be necessary, for the purposes of section 801 of this
16 act.

17 NEW SECTION. **Sec. 810.** A new section is added to chapter 76.09
18 RCW to read as follows:

19 An applicant shall pay a fee at the time an application or
20 notification is submitted pursuant to RCW 76.09.060, or at such other
21 time as the board determines, to cover the costs of the department in
22 processing the application or notification. All money collected from
23 this fee shall be deposited in the state general fund. The board shall
24 establish a schedule for fees in an amount sufficient to generate one
25 million six hundred thousand dollars annually. Each biennium the board
26 shall adjust the total annual revenue target and all fees in accordance
27 with the implicit deflator for personal consumption expenditures

1 published by the United States department of commerce. The fees shall
2 range from no more than fifty dollars for Class II forest practices; no
3 more than one hundred dollars for Class III forest practices; and no
4 more than two hundred dollars for Class IV forest practices: PROVIDED,
5 That the board may require a surcharge of up to eight hundred dollars
6 for applications involving Class IV forest practices on lands being
7 converted to another use. The board shall determine the appropriate
8 additional surcharge for applications involving Class IV forest
9 practices greater than one hundred twenty acres being converted to
10 another use. The board shall establish a schedule for fees for an
11 application or notification that has an effective term of more than two
12 years pursuant to RCW 76.09.060(6), which represents the cumulative
13 cost to the department associated with processing a multiple practice
14 application or notification.

15 NEW SECTION. **Sec. 811.** Unless the context clearly requires
16 otherwise, the definitions in this section apply throughout this
17 chapter.

18 (1) "Wood" or "wood products" has its ordinary meaning and includes
19 any item made of wood and used in construction, including but not
20 limited to lumber, plywood, paneling, shingles, windows, and doors.
21 Wood products also include paper and paper products, which include
22 paper office supplies, paper bags, cardboard, paper plates, paper
23 towels, paper tissue, newsprint, and paper sold for printing or
24 writing, but does not include printed materials such as newspapers,
25 magazines, or books.

26 (2) "Miscellaneous forest-related products" includes any bricks,
27 stones, cement, sand, gravel, ceramic wall or floor tiles, roofing,
28 siding, or insulation used in construction.

1 (3) "Construction" means the remodeling, fabrication and/or
2 assemblage of any residential, commercial, retail, or industrial
3 building or complex.

4 (4) "Forest-related product" means any of the items falling into
5 the categories listed in subsections (1) and (2) of this section. The
6 department of revenue may, by rule, adopt definitions for the
7 categories listed in subsections (1) and (2) of this section. Such
8 definitions shall be guided by the purpose of this chapter.

9 (5) "Possession" means the control of any forest-related product
10 located within this state and includes both actual and constructive
11 possession. "Actual possession" occurs when the person with control
12 has physical possession. "Constructive possession" occurs when the
13 person with control does not have physical possession. "Control" means
14 the power to sell or use any forest-related product or to authorize the
15 sale or use by another.

16 (6) "Previously taxed forest-related product" means a forest-
17 related product in respect to which a tax has been paid under this
18 chapter. A "previously taxed forest-related product" includes forest-
19 related products in respect to which a tax has been paid under this
20 chapter on all of the components of the forest-related product.

21 (7) Except for terms defined in this section, the definitions in
22 chapters 82.04, 82.08, and 82.12 RCW apply to this chapter.

23 (8) In order to verify the payment of the tax, all persons selling
24 or otherwise transferring possession of items taxed under this chapter,
25 except retailers, shall separately itemize the amount of the tax on the
26 invoice, bill of lading, or other delivery document.

27 NEW SECTION. **Sec. 812.** (1) A tax is imposed on the privilege of
28 possession of a forest-related product in this state. The rate of the

1 tax shall be equal to eleven one-hundredths of one percent of the
2 wholesale value of the forest-related product.

3 (a) When a manufacturer produces a forest-related product, the tax
4 shall be imposed on the wholesale value of its finished item and not an
5 ingredient or component in the production process.

6 (b) "Wholesale value" means fair market wholesale value, determined
7 as nearly as possible according to the wholesale selling price at the
8 place of use of similar products of like quality and character, in
9 accordance with rules of the department.

10 (2) Moneys collected under this chapter shall be deposited in the
11 general fund, to be used for the purposes stated in this chapter.

12 (3) Chapter 82.32 RCW applies to the tax imposed in this chapter.
13 The tax due dates, reporting periods, and return requirements
14 applicable to chapter 82.04 RCW apply equally to the tax imposed in
15 this chapter.

16 NEW SECTION. **Sec. 813.** The following are exempt from the tax
17 imposed in this chapter:

18 (1) Any successive possession of a previously taxed forest-related
19 product. If tax due under this chapter has not been paid with respect
20 to a forest-related product, the department may collect the tax from
21 any person who has had possession of the forest-related product. If
22 the tax is paid by any person other than the first person having
23 taxable possession of a forest-related product, the amount of tax paid
24 constitutes a debt owed by the first person having taxable possession
25 to the person who paid the tax.

26 (2) Any forest-related product that is transferred to a point
27 outside the state for use outside the state.

28 (3) Any possession of a forest-related product where the first
29 possession occurred before July 1, 1991.

1 NEW SECTION. **Sec. 814.** (1) Credit shall be allowed, in
2 accordance with rules of the department, against the taxes imposed in
3 this chapter for any forest-related product tax paid to another state
4 with respect to the same forest-related product. The amount of the
5 credit shall not exceed the tax liability arising under this chapter
6 with respect to that forest-related product.

7 (2) For the purpose of this section:

8 (a) "Forest-related product tax" means a tax that is:

9 (i) Imposed on the act or privilege of possessing forest-related
10 products and that is not generally imposed on other activities or
11 privileges; and

12 (ii) Measured by the manufacturing value.

13 (b) "State" means (i) a state of the United States other than
14 Washington, or any political subdivision of such other state, (ii) the
15 District of Columbia, and (iii) any foreign country or political
16 subdivision thereof.

17 NEW SECTION. **Sec. 815.** (1) A tax is imposed on the privilege of
18 possessing outdoor recreational equipment for commercial use in this
19 state. The rate of the tax shall be equal to eight-tenths of one
20 percent of the wholesale selling price.

21 (a) When a manufacturer produces an item of outdoor recreational
22 equipment, the tax shall be imposed on the wholesale value of its
23 finished item and not an ingredient or component in the production
24 process.

25 (b) "Wholesale value" means fair market wholesale value, determined
26 as nearly as possible according to the wholesale selling price at the
27 place of use of similar products of like quality and character, in
28 accordance with rules of the department.

1 (2) Moneys collected under this chapter shall be deposited in the
2 general fund.

3 (3) Chapter 82.32 RCW applies to the tax imposed in this chapter.
4 The tax due dates, reporting periods, and return requirements
5 applicable to chapter 82.04 RCW apply equally to the tax imposed in
6 this chapter.

7 NEW SECTION. **Sec. 816.** (1) Outdoor recreational equipment is
8 limited to the products in the following categories:

9 (a) Any archery or trapping equipment such as bows, arrows, and
10 traps;

11 (b) Any fishing equipment such as poles, reels, and tackle;

12 (c) Camping equipment such as sleeping bags and pads, coolers,
13 stoves, tents, and packs;

14 (d) Skiing and snowshoe equipment such as skis, boots, poles,
15 bindings, snowshoes, snowshoe bindings, and snowboards;

16 (e) Human-powered boating equipment such as canoes, kayaks, rafts,
17 rowing shells, rowboats and dinghies, paddles and oars, and helmets;

18 (f) Bicycle equipment such as bicycles, helmets, tires and tubes,
19 panniers and bags, and racks;

20 (g) Equestrian equipment such as saddles, bridles, and other tack;

21 (h) Climbing equipment such as ropes, carabineers, crampons, ice
22 axes, and helmets;

23 (i) Windsurfing equipment such as boards and sails;

24 (j) Water skiing equipment such as skis, ropes, and bridles;

25 (k) SCUBA and skin diving equipment such as masks, fins, snorkels,
26 weight belts, tanks, backpacks, regulators, gauges, and buoyancy
27 control devices;

28 (l) Hang gliding equipment such as hang gliders, helmets, and
29 slings and harnesses; and

1 (m) Miscellaneous equipment such as wet suits, booties, hoods,
2 gloves, dry suits, personal flotation devices, compasses, and car racks
3 and rack accessories.

4 (2) The department of revenue shall adopt a rule defining the
5 categories in subsection (1) of this section. In making such
6 definitions, the department shall be guided by the purpose of this
7 chapter as stated in section 812 of this act.

8 (3) "Possession" means the control of any outdoor recreational
9 equipment located within this state and includes both actual and
10 constructive possession. "Actual possession" occurs when the person
11 with control has physical possession. "Constructive possession" occurs
12 when the person with control does not have physical possession.
13 "Control" means the power to sell or use any outdoor recreational
14 equipment or to authorize the sale or use by another.

15 (4) "Previously taxed outdoor recreational equipment" means outdoor
16 recreational equipment in respect to which a tax has been paid under
17 this chapter. "Previously taxed outdoor recreational equipment"
18 includes outdoor recreational equipment in respect to which a tax has
19 been paid under this chapter on all of the components of the outdoor
20 recreational equipment.

21 (5) In order to verify the payment of the tax, all persons selling
22 or otherwise transferring possession of items taxed under section 815
23 of this act, except retailers, shall separately itemize amount of the
24 tax on the invoice, bill of lading, or other delivery document.

25 (6) Except for terms defined in this section, the definitions in
26 chapters 82.04, 82.08, and 82.12 RCW apply to this chapter.

27 NEW SECTION. **Sec. 817.** The following are exempt from the tax
28 imposed in this chapter:

1 (1) Any successive possession of previously taxed outdoor
2 recreational equipment. If tax due under this chapter has not been
3 paid with respect to outdoor recreational equipment, the department may
4 collect the tax from any person who has had possession of the outdoor
5 recreational equipment. If the tax is paid by any person other than
6 the first person having taxable possession of outdoor recreational
7 equipment, the amount of tax paid constitutes a debt owed by the first
8 person having taxable possession to the person who paid the tax.

9 (2) Any outdoor recreational equipment that is transferred to a
10 point outside the state for use outside the state.

11 (3) Any possession of outdoor recreational equipment where the
12 first possession occurred before July 1, 1991.

13 NEW SECTION. **Sec. 818.** (1) Credit shall be allowed, in
14 accordance with rules of the department, against the taxes imposed in
15 this chapter for any outdoor recreational equipment tax paid to another
16 state with respect to the same outdoor recreational equipment. The
17 amount of the credit shall not exceed the tax liability arising under
18 this chapter with respect to that outdoor recreational equipment.

19 (2) For the purpose of this section:

20 (a) "Outdoor recreational equipment tax" means a tax that is:

21 (i) Imposed on the act or privilege of possessing outdoor
22 recreational equipment for commercial use and that is not generally
23 imposed on other activities or privileges; and

24 (ii) Measured by manufacturing value.

25 (b) "State" means (i) a state of the United States other than
26 Washington, or any political subdivision of such other state, (ii) the
27 District of Columbia, and (iii) any foreign country or political
28 subdivision thereof.

1 NEW SECTION. **Sec. 819.** The sum of seven million eight hundred
2 sixty-six thousand dollars, or as much thereof as may be necessary, is
3 appropriated for the biennium ending June 30, 1993, from the general
4 fund to the department of natural resources for the purposes of this
5 act.

6 NEW SECTION. **Sec. 820.** The sum of one million six hundred fifty
7 thousand dollars, or as much thereof as may be necessary, is
8 appropriated for the biennium ending June 30, 1993, from the general
9 fund to the department of wildlife for the purposes of this act.

10 NEW SECTION. **Sec. 821.** The sum of nine hundred seventeen
11 thousand dollars, or as much thereof as may be necessary, is
12 appropriated for the biennium ending June 30, 1993, from the general
13 fund to the department of fisheries for the purposes of this act.

14 NEW SECTION. **Sec. 822.** The sum of seven hundred ninety-one
15 thousand dollars, or as much thereof as may be necessary, is
16 appropriated for the biennium ending June 30, 1993, from the general
17 fund to the department of ecology for the purposes of this act.

18 NEW SECTION. **Sec. 823.** The sum of two hundred fifty thousand
19 dollars, or as much thereof as may be necessary, is appropriated for
20 the biennium ending June 30, 1993, from the general fund to the
21 department of community development for the purposes of this act.

22 NEW SECTION. **Sec. 824.** The sum of two hundred thousand dollars,
23 or as much thereof as may be necessary, is appropriated for the
24 biennium ending June 30, 1993, from the general fund to the department
25 of revenue for the purposes of this act.

PART IX

MISCELLANEOUS

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NEW SECTION. **Sec. 901.** Sections 304 through 307, 401, and 501 of this act are each added to chapter 76.09 RCW.

NEW SECTION. **Sec. 902.** Sections 607 through 613 of this act are each added to chapter 84.33 RCW.

NEW SECTION. **Sec. 903.** Sections 811 through 818 of this act shall constitute a new chapter in Title 76 RCW.

NEW SECTION. **Sec. 904.** Sections 811 through 818 of this act shall expire on June 30, 2001.

NEW SECTION. **Sec. 905.** Captions and headings as used in this act constitute no part of the law.

NEW SECTION. **Sec. 906.** This act shall be null and void in the event that the legislature fails to appropriate such funds for this act and for the administration for the forest practices program and if such appropriation does not derive from new revenues developed pursuant to this act.

NEW SECTION. **Sec. 907.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

1 NEW SECTION. **Sec. 908.** (1) Section 810 of this act is necessary
2 for the immediate preservation of the public peace, health, or safety,
3 or support of the state government and its existing public
4 institutions, and shall take effect immediately.

5 (2) Sections 811 through 818 are necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and shall take
8 effect July 1, 1991.