

**HB 1582** - S COMM AMD

By Committee on Natural Resources & Marine Waters

ADOPTED 03/30/2011

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

3 "Sec. 1. RCW 76.09.050 and 2010 c 210 s 20 are each amended to  
4 read as follows:

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

7 Class I: Minimal or specific forest practices that have no direct  
8 potential for damaging a public resource and that may be conducted  
9 without submitting an application or a notification except that when  
10 the regulating authority is transferred to a local governmental entity,  
11 those Class I forest practices that involve timber harvesting or road  
12 construction within "urban growth areas," designated pursuant to  
13 chapter 36.70A RCW, are processed as Class IV forest practices, but are  
14 not subject to environmental review under chapter 43.21C RCW;

15 Class II: Forest practices which have a less than ordinary  
16 potential for damaging a public resource that may be conducted without  
17 submitting an application and may begin five calendar days, or such  
18 lesser time as the department may determine, after written notification  
19 by the operator, in the manner, content, and form as prescribed by the  
20 department, is received by the department. However, the work may not  
21 begin until all forest practice fees required under RCW 76.09.065 have  
22 been received by the department. Class II shall not include forest  
23 practices:

24 (a) On ~~((lands platted after January 1, 1960, as provided in~~  
25 ~~chapter 58.17 RCW or on lands that have or are being converted to~~  
26 ~~another use))~~ forest lands that are being converted to another use;

27 (b) Which require approvals under the provisions of the hydraulics  
28 act, RCW 77.55.021;

29 (c) Within "shorelines of the state" as defined in RCW 90.58.030;

30 (d) Excluded from Class II by the board; or

1 (e) Including timber harvesting or road construction within "urban  
2 growth areas," designated pursuant to chapter 36.70A RCW, which are  
3 Class IV;

4 Class III: Forest practices other than those contained in Class I,  
5 II, or IV. A Class III application must be approved or disapproved by  
6 the department within thirty calendar days from the date the department  
7 receives the application. However, the applicant may not begin work on  
8 that forest practice until all forest practice fees required under RCW  
9 76.09.065 have been received by the department;

10 Class IV: Forest practices other than those contained in Class I  
11 or II:

12 (a) On ~~((lands platted after January 1, 1960, as provided in~~  
13 ~~chapter 58.17 RCW, (b) on lands that have or are being converted to~~  
14 ~~another use, (c))~~ forest lands that are being converted to another  
15 use;

16 (b) On lands which, pursuant to RCW 76.09.070 as now or hereafter  
17 amended, are not to be reforested because of the likelihood of future  
18 conversion to urban development((τ));

19 ~~((d) involving))~~ (c) That involve timber harvesting or road  
20 construction on forest lands that are contained within "urban growth  
21 areas," designated pursuant to chapter 36.70A RCW, except where the  
22 forest landowner provides:

23 (i) A written statement of intent signed by the forest landowner  
24 not to convert to a use other than commercial forest product operations  
25 for ten years, accompanied by either a written forest management plan  
26 acceptable to the department or documentation that the land is enrolled  
27 under the provisions of chapter 84.33 or 84.34 RCW; or

28 (ii) A conversion option harvest plan approved by the local  
29 governmental entity and submitted to the department as part of the  
30 application((τ)); and/or

31 ~~((e))~~ (d) Which have a potential for a substantial impact on the  
32 environment and therefore require an evaluation by the department as to  
33 whether or not a detailed statement must be prepared pursuant to the  
34 state environmental policy act, chapter 43.21C RCW. Such evaluation  
35 shall be made within ten days from the date the department receives the  
36 application: PROVIDED, That nothing herein shall be construed to  
37 prevent any local or regional governmental entity from determining that  
38 a detailed statement must be prepared for an action pursuant to a Class

1 IV forest practice taken by that governmental entity concerning the  
2 land on which forest practices will be conducted. A Class IV  
3 application must be approved or disapproved by the department within  
4 thirty calendar days from the date the department receives the  
5 application, unless the department determines that a detailed statement  
6 must be made, in which case the application must be approved or  
7 disapproved by the department within sixty calendar days from the date  
8 the department receives the application, unless the commissioner of  
9 public lands, through the promulgation of a formal order, determines  
10 that the process cannot be completed within such period. However, the  
11 applicant may not begin work on that forest practice until all forest  
12 practice fees required under RCW 76.09.065 have been received by the  
13 department.

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

17 (2) Except for those forest practices being regulated by local  
18 governmental entities as provided elsewhere in this chapter, no Class  
19 II, Class III, or Class IV forest practice shall be commenced or  
20 continued after January 1, 1975, unless the department has received a  
21 notification with regard to a Class II forest practice or approved an  
22 application with regard to a Class III or Class IV forest practice  
23 containing all information required by RCW 76.09.060 as now or  
24 hereafter amended. However, in the event forest practices regulations  
25 necessary for the scheduled implementation of this chapter and RCW  
26 90.48.420 have not been adopted in time to meet such schedules, the  
27 department shall have the authority to regulate forest practices and  
28 approve applications on such terms and conditions consistent with this  
29 chapter and RCW 90.48.420 and the purposes and policies of RCW  
30 76.09.010 until applicable forest practices regulations are in effect.

31 (3) Except for those forest practices being regulated by local  
32 governmental entities as provided elsewhere in this chapter, if a  
33 notification or application is delivered in person to the department by  
34 the operator or the operator's agent, the department shall immediately  
35 provide a dated receipt thereof. In all other cases, the department  
36 shall immediately mail a dated receipt to the operator.

37 (4) Except for those forest practices being regulated by local  
38 governmental entities as provided elsewhere in this chapter, forest

1 practices shall be conducted in accordance with the forest practices  
2 regulations, orders and directives as authorized by this chapter or the  
3 forest practices regulations, and the terms and conditions of any  
4 approved applications.

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

30 (6) For those forest practices regulated by the board and the  
31 department, if the county, city, or town believes that an application  
32 is inconsistent with this chapter, the forest practices regulations, or  
33 any local authority consistent with RCW 76.09.240 as now or hereafter  
34 amended, it may so notify the department and the applicant, specifying  
35 its objections.

36 (7) For those forest practices regulated by the board and the  
37 department, the department shall not approve portions of applications  
38 to which a county, city, or town objects if:

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

6 (b) The objections relate to (~~lands either~~  
7 ~~(i) Platted after January 1, 1960, as provided in chapter 58.17~~  
8 ~~RCW; or~~  
9 ~~(ii) On~~) forest lands that (~~have or~~) are being converted to  
10 another use.

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

23 (8) For those forest practices regulated by the board and the  
24 department, in addition to any rights under the above paragraph, the  
25 county, city, or town may appeal any department approval of an  
26 application with respect to any lands within its jurisdiction. The  
27 appeals board may suspend the department's approval in whole or in part  
28 pending such appeal where there exists potential for immediate and  
29 material damage to a public resource.

30 (9) For those forest practices regulated by the board and the  
31 department, appeals under this section shall be made to the appeals  
32 board in the manner and time provided in RCW 76.09.205. In such  
33 appeals there shall be no presumption of correctness of either the  
34 county, city, or town or the department position.

35 (10) For those forest practices regulated by the board and the  
36 department, the department shall, within four business days notify the  
37 county, city, or town of all notifications, approvals, and disapprovals

1 of an application affecting lands within the county, city, or town,  
2 except to the extent the county, city, or town has waived its right to  
3 such notice.

4 (11) For those forest practices regulated by the board and the  
5 department, a county, city, or town may waive in whole or in part its  
6 rights under this section, and may withdraw or modify any such waiver,  
7 at any time by written notice to the department.

8 (12) Notwithstanding subsections (2) through (5) of this section,  
9 forest practices applications or notifications are not required for  
10 exotic insect and disease control operations conducted in accordance  
11 with RCW 76.09.060(8) where eradication can reasonably be expected.

12 **Sec. 2.** RCW 76.09.240 and 2010 c 219 s 1 are each amended to read  
13 as follows:

14 (1)(a) Counties planning under RCW 36.70A.040 with a population  
15 greater than one hundred thousand, and the cities and towns within  
16 those counties, where more than a total of twenty-five Class IV forest  
17 practices applications, as defined in RCW 76.09.050(1) Class IV (a)  
18 through (d), have been filed with the department between January 1,  
19 2003, and December 31, 2005, shall adopt and enforce ordinances or  
20 regulations as provided in subsection (2) of this section for the  
21 following:

22 (i) Forest practices classified as Class I, II, III, and IV that  
23 are within urban growth areas designated under RCW 36.70A.110, except  
24 for forest practices on ownerships of contiguous forest land equal to  
25 or greater than twenty acres where the forest landowner provides, to  
26 the department and the county, city, or town, a written statement of  
27 intent, signed by the forest landowner, not to convert to a use other  
28 than growing commercial timber for ten years. This statement must be  
29 accompanied by either:

30 (A) A written forest management plan acceptable to the department;  
31 or

32 (B) Documentation that the land is enrolled as forest land of long-  
33 term commercial significance under the provisions of chapter 84.33 RCW;  
34 and

35 (ii) Forest practices classified as Class IV, outside urban growth  
36 areas designated under RCW 36.70A.110, involving either timber harvest  
37 or road construction, or both on:

1 (A) (~~Lands platted after January 1, 1960, as provided in chapter~~  
2 ~~58.17 RCW;~~

3 ~~(B))~~ Forest lands that (~~have or~~) are being converted to another  
4 use; or

5 ~~((C))~~ (B) Lands which, under RCW 76.09.070, are not to be  
6 reforested because of the likelihood of future conversion to urban  
7 development;

8 (b) Counties planning under RCW 36.70A.040, and the cities and  
9 towns within those counties, not included in (a) of this subsection,  
10 may adopt and enforce ordinances or regulations as provided in (a) of  
11 this subsection; and

12 (c) Counties not planning under RCW 36.70A.040, and the cities and  
13 towns within those counties, may adopt and enforce ordinances or  
14 regulations as provided in subsection (2) of this section for forest  
15 practices classified as Class IV involving either timber harvest or  
16 road construction, or both on:

17 (i) (~~Lands platted after January 1, 1960, as provided in chapter~~  
18 ~~58.17 RCW;~~

19 ~~(ii))~~ Forest lands that (~~have or~~) are being converted to another  
20 use; or

21 ~~((iii))~~ (ii) Lands which, under RCW 76.09.070, are not to be  
22 reforested because of the likelihood of future conversion to urban  
23 development.

24 (2) Before a county, city, or town may regulate forest practices  
25 under subsection (1) of this section, it shall ensure that its critical  
26 areas and development regulations are in compliance with RCW 36.70A.130  
27 and, if applicable, RCW 36.70A.215. The county, city, or town shall  
28 notify the department and the department of ecology in writing sixty  
29 days prior to adoption of the development regulations required in this  
30 section. The transfer of jurisdiction shall not occur until the  
31 county, city, or town has notified the department, the department of  
32 revenue, and the department of ecology in writing of the effective date  
33 of the regulations. Ordinances and regulations adopted under  
34 subsection (1) of this section and this subsection must be consistent  
35 with or supplement development regulations that protect critical areas  
36 pursuant to RCW 36.70A.060, and shall at a minimum include:

37 (a) Provisions that require appropriate approvals for all phases of

1 the conversion of forest lands, including land clearing and grading;  
2 and

3 (b) Procedures for the collection and administration of permit and  
4 recording fees.

5 (3) Activities regulated by counties, cities, or towns as provided  
6 in subsections (1) and (2) of this section shall be administered and  
7 enforced by those counties, cities, or towns. The department shall not  
8 regulate these activities under this chapter.

9 (4) The board shall continue to adopt rules and the department  
10 shall continue to administer and enforce those rules in each county,  
11 city, or town for all forest practices as provided in this chapter  
12 until such a time as the county, city, or town has updated its  
13 development regulations as required by RCW 36.70A.130 and, if  
14 applicable, RCW 36.70A.215, and has adopted ordinances or regulations  
15 under subsections (1) and (2) of this section. However, counties,  
16 cities, and towns that have adopted ordinances or regulations regarding  
17 forest practices prior to ~~((July 22, 2007,))~~ the effective date of this  
18 section are not required to readopt their ordinances or regulations in  
19 order to satisfy the requirements of this section except as necessary  
20 to ensure consistency with Class IV forest practices as defined in RCW  
21 76.09.050.

22 (5) Upon request, the department shall provide technical assistance  
23 to all counties, cities, and towns while they are in the process of  
24 adopting the regulations required by this section, and after the  
25 regulations become effective.

26 (6) For those forest practices over which the board and the  
27 department maintain regulatory authority no county, city, municipality,  
28 or other local or regional governmental entity shall adopt or enforce  
29 any law, ordinance, or regulation pertaining to forest practices,  
30 except that to the extent otherwise permitted by law, such entities may  
31 exercise any:

32 (a) Land use planning or zoning authority: PROVIDED, That exercise  
33 of such authority may regulate forest practices only(~~(+—(i))~~) where  
34 the application submitted under RCW 76.09.060 as now or hereafter  
35 amended indicates that the lands (~~((have been or will be))~~) are being  
36 converted to a use other than commercial forest product production(~~(+—~~  
37 ~~or (ii) on lands which have been platted after January 1, 1960, as~~  
38 ~~provided in chapter 58.17 RCW))~~): PROVIDED, That no permit system



1 solely for forest practices shall be allowed; that any additional or  
2 more stringent regulations shall not be inconsistent with the forest  
3 practices regulations enacted under this chapter; and such local  
4 regulations shall not unreasonably prevent timber harvesting;

5 (b) Taxing powers;

6 (c) Regulatory authority with respect to public health; and

7 (d) Authority granted by chapter 90.58 RCW, the "Shoreline  
8 Management Act of 1971."

9 (7) All counties and cities adopting or enforcing regulations or  
10 ordinances under this section shall include in the regulation or  
11 ordinance a requirement that a verification accompany every permit  
12 issued for forest land by that county or city associated with the  
13 conversion to a use other than commercial timber operation, as that  
14 term is defined in RCW 76.09.020, that verifies that the land in  
15 question is not or has not been subject to a notice of conversion to  
16 nonforestry uses under RCW 76.09.060 during the six-year period prior  
17 to the submission of a permit application.

18 (8) To improve the administration of the forest excise tax created  
19 in chapter 84.33 RCW, a county, city, or town that regulates forest  
20 practices under this section shall report permit information to the  
21 department of revenue for all approved forest practices permits. The  
22 permit information shall be reported to the department of revenue no  
23 later than sixty days after the date the permit was approved and shall  
24 be in a form and manner agreed to by the county, city, or town and the  
25 department of revenue. Permit information includes the landowner's  
26 legal name, address, telephone number, and parcel number.

27 **Sec. 3.** RCW 43.21C.037 and 1997 c 173 s 6 are each amended to read  
28 as follows:

29 (1) Decisions pertaining to applications for Class I, II, and III  
30 forest practices, as defined by rule of the forest practices board  
31 under RCW 76.09.050, are not subject to the requirements of RCW  
32 43.21C.030(2)(c) as now or hereafter amended.

33 (2) When the applicable county, city, or town requires a license in  
34 connection with any proposal involving forest practices:

35 (a) (~~on lands platted after January 1, 1960, as provided in~~  
36 ~~chapter 58.17 RCW, (b))~~ On forest lands that (~~have or~~) are being  
37 converted to another use(~~(τ))~~i or

1       (~~(e)~~) (b) On lands which, pursuant to RCW 76.09.070 as now or  
2 hereafter amended, are not to be reforested because of the likelihood  
3 of future conversion to urban development, then the local government,  
4 rather than the department of natural resources, is responsible for any  
5 detailed statement required under RCW 43.21C.030(2)(c).

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

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25       On page 1, line 2 of the title, after "purposes;" strike the  
26 remainder of the title and insert "and amending RCW 76.09.050,  
27 76.09.240, and 43.21C.037."

--- END ---