**6488-S AMH RDAN H5113.2 - NOT FOR FLOOR USE**

**SSB 6488** - H COMM AMD

By Committee on Rural Development, Agriculture, & Natural Resources

Strike everything after the enacting clause and insert the following:

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

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

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

(2) This section expires June 30, 2030.

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

(1) The board shall develop interpretive guidance in the forest practices board manual to clarify the adjacent property buffer requirements in the forest practices rules, including provisions for the board manual that explain the buffer rules for the protection of private property, including adjacent residential and agricultural properties. The board must also use a stakeholder process to update the forest practices board manual, as provided in WAC 222-12-090 as it existed on January 1, 2020, to include best management practices and technical guidance related to the aerial application of herbicides consistent with forest practices rules including, but not limited to, equipment, weather conditions, communicating best management practices to neighbors, signage, and as appropriate, information about alternatives to herbicides. The forest practices board manual updates must be completed by November 1, 2021.

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

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

(4) This section expires December 31, 2021.

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) All necessary application or notification fees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) This section expires December 31, 2021.

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

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

Correct the title.

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

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

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

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

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

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

Removes the emergency clause and immediate effective date.