

2 **SHB 2091 - H AMD 373 ADOPTED 5/17/99**

3 By Representative

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. Sec. 101. A new section is added to chapter 75.46  
8 RCW and codified with the subchapter heading of "salmon recovery  
9 planning in areas involving forest practices" to read as follows:

10 (1) The legislature finds that the forests and fish report as  
11 defined in RCW 76.09.020 was developed through extensive negotiations  
12 with the federal agencies responsible for administering the endangered  
13 species act and the clean water act. The legislature further finds  
14 that the forestry industry, small landowners, tribal governments, state  
15 and federal agencies, and counties have worked diligently for nearly  
16 two years to reach agreement on scientifically based changes to the  
17 forest practices rules, set forth in the forests and fish report as  
18 defined in RCW 76.09.020. The legislature further finds that if  
19 existing forest practices rules are amended as proposed in the forests  
20 and fish report as defined in RCW 76.09.020, the resulting changes in  
21 forest practices (a) will lead to: (i) Salmon habitat that meets  
22 riparian functions vital to the long-term recovery of salmon on more  
23 than sixty thousand miles of streams in this state; (ii) identification  
24 of forest roads contributing to habitat degradation and corrective  
25 action to remedy those problems to protect salmon habitat; (iii)  
26 increased protection of steep and unstable slopes; and (iv) the  
27 implementation of scientifically based adaptive management and  
28 monitoring processes for evaluating the impacts of forest practices on  
29 aquatic resources, as defined in RCW 76.09.020, and a process for  
30 amending the forest practices rules to incorporate new information as  
31 it becomes available; (b) will lead to the protection of aquatic  
32 resources to the maximum extent practicable consistent with maintaining  
33 commercial forest management as an economically viable use of lands  
34 suitable for that purpose; and (c) will provide a regulatory climate  
35 and structure more likely to keep landowners from converting forest  
36 lands to other uses that would be less desirable for salmon recovery.

1       (2) The legislature further finds that the changes in laws and  
2 rules contemplated by chapter . . . , Laws of 1999 (this act), taken as  
3 a whole, constitute a comprehensive and coordinated program to provide  
4 substantial and sufficient contributions to salmon recovery and water  
5 quality enhancement in areas impacted by forest practices and are  
6 intended to fully satisfy the requirements of the endangered species  
7 act (16 U.S.C. Sec. 1531 et seq.) with respect to incidental take of  
8 salmon and other aquatic resources and the clean water act (33 U.S.C.  
9 Sec. 1251 et seq.) with respect to nonpoint source pollution  
10 attributable to forest practices.

11       (3) The legislature finds that coordination is needed between the  
12 laws relating to forestry in chapter 76.09 RCW and the state salmon  
13 recovery strategy being developed under this chapter. The coordination  
14 should ensure that nonfederal forest lands are managed in ways that  
15 make appropriate contributions to the recovery of salmonid fish, water  
16 quality, and related environmental amenities while encouraging  
17 continued investments in those lands for commercial forestry purposes.  
18 Specifically, the legislature finds that forest practices rules  
19 relating to water quality, salmon, certain other species of fish,  
20 certain species of stream-associated amphibians, and their respective  
21 habitats should be coordinated with the rules and policies relating to  
22 other land uses through the state-wide salmon recovery planning  
23 process. The legislature further finds that this subchapter is but one  
24 part of a comprehensive salmon strategy as required in this chapter,  
25 and this investment in salmon habitat will be of little value if a  
26 comprehensive state plan is not completed and fully implemented.

27       (4) The legislature recognizes that the adoption of forest  
28 practices rules consistent with the forests and fish report as defined  
29 in RCW 76.09.020 will impose substantial financial burdens on forest  
30 landowners which, if not partially offset through other changes in the  
31 laws and rules governing forestry, could lead to significantly reduced  
32 silvicultural investments on nonfederal lands, deterioration in the  
33 quality, condition, and amounts of forests on those lands, and long-  
34 term adverse effects on fish and wildlife habitat and other  
35 environmental amenities associated with well managed forests.  
36 Moreover, as the benefits of the proposed revisions to the forest  
37 practices rules will benefit the general public, chapter . . . , Laws of  
38 1999 (this act) suggests that some of these costs be shared with the  
39 general public.

1 (5) As an integral part of implementing the salmon recovery  
2 strategy, chapter . . ., Laws of 1999 (this act) (a) provides direction  
3 to the forest practices board, the department of natural resources, and  
4 the department of ecology with respect to the adoption, implementation,  
5 and enforcement of rules relating to forest practices and the  
6 protection of aquatic resources; (b) provides additional enforcement  
7 tools to the department of natural resources to enforce the forest  
8 practices rules; (c) anticipates the need for adequate and consistent  
9 funding for the various programmatic elements necessary to fully  
10 implement the strategy over time and derive the long-term benefits; (d)  
11 provides for the acquisition by the state of forest lands within  
12 certain stream channel migration zones where timber harvest will not be  
13 allowed; (e) provides for small landowners to have costs shared for a  
14 portion of any extraordinary economic losses attributable to the  
15 revisions to the forest practices rules required by chapter . . ., Laws  
16 of 1999 (this act); and (f) amends other existing laws to aid in the  
17 implementation of the recommendations set forth in the forests and fish  
18 report as defined in RCW 76.09.020.

19 **PART II**  
20 **RULE MAKING**

21 NEW SECTION. **Sec. 201.** A new section is added to chapter 76.09  
22 RCW to read as follows:

23 (1) The legislature finds that the declines of fish stocks  
24 throughout much of the state requires immediate action to be taken to  
25 help restore these fish runs where possible. The legislature also  
26 recognizes that federal and state agencies, tribes, county  
27 representatives, and private timberland owners have spent considerable  
28 effort and time to develop the forests and fish report. Given the  
29 agreement of the parties, the legislature believes that the immediate  
30 adoption of emergency rules is appropriate in this particular instance.  
31 These rules can implement many provisions of the forests and fish  
32 report to protect the economic well-being of the state, and to minimize  
33 the risk to the state and landowners to legal challenges. This  
34 authority is not designed to set any precedents for the forest  
35 practices board in future rule making or set any precedents for other  
36 rule-making bodies of the state.

1 (2) The forest practices board is authorized to adopt emergency  
2 rules amending the forest practices rules with respect to the  
3 protection of aquatic resources, in accordance with RCW 34.05.350,  
4 except: (a) That the rules adopted under this section may remain in  
5 effect until permanent rules are adopted, or until June 30, 2001,  
6 whichever is sooner; (b) notice of the proposed rules must be published  
7 in the Washington State Register as provided in RCW 34.05.320; (c) at  
8 least one public hearing must be conducted with an opportunity to  
9 provide oral and written comments; and (d) a rule-making file must be  
10 maintained as required by RCW 34.05.370. In adopting the emergency  
11 rules, the board is not required to prepare a small business economic  
12 impact statement under chapter 19.85 RCW, prepare a statement  
13 indicating whether the rules constitute a significant legislative rule  
14 under RCW 34.05.328, prepare a significant legislative rule analysis  
15 under RCW 34.05.328, or follow the procedural requirements of the state  
16 environmental policy act, chapter 43.21C RCW. The forest practices  
17 board may only adopt recommendations contained in the forests and fish  
18 report as emergency rules under this section.

19 NEW SECTION. **Sec. 202.** A new section is added to chapter 34.05  
20 RCW to read as follows:

21 Emergency rules adopted by the forest practices board pertaining to  
22 forest practices and the protection of aquatic resources are subject to  
23 this chapter to the extent provided in section 201 of this act.

24 NEW SECTION. **Sec. 203.** A new section is added to chapter 43.21C  
25 RCW to read as follows:

26 The duration and process for adopting emergency rules by the forest  
27 practices board pertaining to forest practices and the protection of  
28 aquatic resources as provided in section 201 of this act are exempt  
29 from the procedural requirements of this chapter.

30 NEW SECTION. **Sec. 204.** A new section is added to chapter 76.09  
31 RCW to read as follows:

32 (1) The legislature finds that the process that produced the  
33 forests and fish report was instigated by the forest practices board,  
34 the report is the product of considerable negotiations between several  
35 diverse interest groups, and the report has the support of key federal  
36 agencies. When adopting permanent rules under this section, the forest

1 practices board is strongly encouraged to follow the recommendations of  
2 the forests and fish report, but may include other alternatives for  
3 protection of aquatic resources. If the forest practices board chooses  
4 to adopt rules under this section that are not consistent with the  
5 recommendations contained in the forests and fish report, the board  
6 must notify the appropriate legislative committees of the proposed  
7 deviations, the reasons for the proposed deviations, and whether the  
8 parties to the forests and fish report still support the agreement.  
9 The board shall defer final adoption of such rules for sixty days of  
10 the legislative session to allow for the opportunity for additional  
11 public involvement and legislative oversight.

12 (2) The forest practices board shall follow the regular rules  
13 adoption process contained in the administrative procedure act, chapter  
14 34.05 RCW, when adopting permanent rules pertaining to forest practices  
15 and the protection of aquatic resources except as limited by subsection  
16 (1) of this section. The permanent rules must accomplish the policies  
17 stated in RCW 76.09.010 without jeopardizing the economic viability of  
18 the forest products industry.

19 (3) The rules adopted under this section should be as specific as  
20 reasonably possible while also allowing an applicant to propose  
21 alternate plans in response to site-specific physical features.  
22 Alternate plans should provide protection to public resources at least  
23 equal in overall effectiveness by alternate means.

24 (4) Rule making under subsection (2) of this section shall be  
25 completed by June 30, 2001.

26 (5) The board should consider coordinating any environmental review  
27 process under chapter 43.21C RCW relating to the adoption of rules  
28 under subsection (2) of this section with any review of a related  
29 proposal under the national environmental policy act (42 U.S.C. Sec.  
30 4321, et seq.).

31 (6) After the board has adopted permanent rules under subsection  
32 (2) of this section, changes to those rules and any new rules covering  
33 aquatic resources may be adopted by the board but only if the changes  
34 or new rules are consistent with recommendations resulting from the  
35 scientifically based adaptive management process established by a rule  
36 of the board. Any new rules or changes under this subsection need not  
37 be based upon the recommendations of the adaptive management process  
38 if: (a) The board is required to adopt or modify rules by the final

1 order of any court having jurisdiction thereof; or (b) future state  
2 legislation directs the board to adopt or modify the rules.

3 (7) In adopting permanent rules, the board shall incorporate the  
4 scientific-based adaptive management process described in the forests  
5 and fish report which will be used to determine the effectiveness of  
6 the new forest practices rules in aiding the state's salmon recovery  
7 effort. The purpose of an adaptive management process is to make  
8 adjustments as quickly as possible to forest practices that are not  
9 achieving the resource objectives. The adaptive management process  
10 shall incorporate the best available science and information, include  
11 protocols and standards, regular monitoring, a scientific and peer  
12 review process, and provide recommendations to the board on proposed  
13 changes to forest practices rules to meet timber industry viability and  
14 salmon recovery.

15 NEW SECTION. **Sec. 205.** A new section is added to chapter 76.09  
16 RCW to read as follows:

17 Prior to the adoption of permanent rules as required by chapter  
18 . . ., Laws of 1999 (this act) and no later than January 1, 2000, the  
19 board shall report to the appropriate legislative committees regarding  
20 the substance of emergency rules that have been adopted under chapter  
21 . . ., Laws of 1999 (this act). In addition, the report shall include  
22 information on changes made to the forests and fish report after  
23 February 22, 1999, and an update on the status of the adoption of  
24 permanent rules, including the anticipated substance of the rules and  
25 the anticipated date of final adoption. The board shall additionally  
26 provide a report to the appropriate legislative committees by January  
27 1, 2001.

28 On January 1, 2006, the board shall provide a summary to the  
29 appropriate legislative committees regarding modifications made to the  
30 forests and fish report made after January 1, 2000, and to the  
31 permanent rules according to the adaptive management process as set  
32 forth in the forests and fish report.

33 **PART III**  
34 **DEFINITIONS**

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

1 For purposes of this chapter:

2 (1) "Adaptive management" means reliance on scientific methods to  
3 test the results of actions taken so that the management and related  
4 policy can be changed promptly and appropriately.

5 (2) "Appeals board" (~~(shall)~~) means the forest practices appeals  
6 board created by RCW 76.09.210.

7 (~~((2))~~) (3) "Aquatic resources" includes water quality, salmon,  
8 other species of the vertebrate classes Cephalaspidomorphi and  
9 Osteichthyes identified in the forests and fish report, the Columbia  
10 torrent salamander (*Rhyacotriton kezeri*), the Cascade torrent  
11 salamander (*Rhyacotriton cascadae*), the Olympic torrent salamander  
12 (*Rhyacotriton olympian*), the Dunn's salamander (*Plethodon dumni*), the  
13 Van Dyke's salamander (*Plethodon vandyke*), the tailed frog (*Ascaphus*  
14 truei), and their respective habitats.

15 (4) "Commissioner" (~~(shall)~~) means the commissioner of public  
16 lands.

17 (~~((3))~~) (5) "Contiguous" (~~(shall)~~) means land adjoining or touching  
18 by common corner or otherwise. Land having common ownership divided by  
19 a road or other right of way shall be considered contiguous.

20 (~~((4))~~) (6) "Conversion to a use other than commercial timber  
21 operation" (~~(shall)~~) means a bona fide conversion to an active use  
22 which is incompatible with timber growing and as may be defined by  
23 forest practices (~~(regulations)~~) rules.

24 (~~((5))~~) (7) "Department" (~~(shall)~~) means the department of natural  
25 resources.

26 (~~((6))~~) (8) "Forest land" (~~(shall)~~) means all land which is capable  
27 of supporting a merchantable stand of timber and is not being actively  
28 used for a use which is incompatible with timber growing.

29 (~~((7))~~) (9) "Forest landowner" (~~(shall)~~) means any person in actual  
30 control of forest land, whether such control is based either on legal  
31 or equitable title, or on any other interest entitling the holder to  
32 sell or otherwise dispose of any or all of the timber on such land in  
33 any manner: PROVIDED, That any lessee or other person in possession of  
34 forest land without legal or equitable title to such land shall be  
35 excluded from the definition of "forest landowner" unless such lessee  
36 or other person has the right to sell or otherwise dispose of any or  
37 all of the timber located on such forest land.

38 (~~((8))~~) (10) "Forest practice" (~~(shall)~~) means any activity  
39 conducted on or directly pertaining to forest land and relating to

1 growing, harvesting, or processing timber, including but not limited  
2 to:

- 3 (a) Road and trail construction;
- 4 (b) Harvesting, final and intermediate;
- 5 (c) Precommercial thinning;
- 6 (d) Reforestation;
- 7 (e) Fertilization;
- 8 (f) Prevention and suppression of diseases and insects;
- 9 (g) Salvage of trees; and
- 10 (h) Brush control.

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

17 ~~((+9))~~ (11) "Forest practices ~~((regulations" shall))~~ rules" means  
18 any rules ~~((promulgated))~~ adopted pursuant to RCW 76.09.040.

19 ~~((+10))~~ (12) "Forests and fish report" means the forests and fish  
20 report to the board dated February 22, 1999.

21 (13) "Application" ~~((shall))~~ means the application required  
22 pursuant to RCW 76.09.050.

23 ~~((+11))~~ (14) "Operator" ~~((shall))~~ means any person engaging in  
24 forest practices except an employee with wages as his or her sole  
25 compensation.

26 ~~((+12))~~ (15) "Person" ~~((shall))~~ means any individual, partnership,  
27 private, public, or municipal corporation, county, the department or  
28 other state or local governmental entity, or association of individuals  
29 of whatever nature.

30 ~~((+13))~~ (16) "Public resources" ~~((shall))~~ means water, fish and  
31 wildlife, and in addition shall mean capital improvements of the state  
32 or its political subdivisions.

33 ~~((+14))~~ (17) "Timber" ~~((shall))~~ means forest trees, standing or  
34 down, of a commercial species, including Christmas trees.

35 ~~((+15))~~ (18) "Timber owner" ~~((shall))~~ means any person having all  
36 or any part of the legal interest in timber. Where such timber is  
37 subject to a contract of sale, "timber owner" shall mean the contract  
38 purchaser.





1 (d) Refunds may not be given in place of credits. Credit may not  
2 be claimed in excess of tax owed. The department of revenue shall  
3 disallow any credits, used or unused, upon written notification from  
4 the department of natural resources of a final decision that timber for  
5 which credit was claimed was not harvested under a forest practices  
6 notification filed or application approved under RCW 76.09.050 and  
7 subject to enhanced aquatic resources requirements.

8 (3) As used in this section, a forest practice notification or  
9 application is subject to enhanced aquatic resource requirements if it  
10 includes, in whole or in part, riparian area, wetland, or steep or  
11 unstable slope from which the operator is limited, by rule adopted  
12 under sections 201 through 204 of this act, or any federally approved  
13 habitat conservation plan or department of natural resources approved  
14 watershed analysis, from harvesting timber, or if a road is included  
15 within or adjacent to the area covered by such notification or  
16 application and the road is covered by a road maintenance plan approved  
17 by the department of natural resources under rules adopted under  
18 chapter 76.09 RCW, the forest practices act, or a federally approved  
19 habitat conservation plan.

20 (4) For forest practices notification or applications submitted  
21 after January 1, 2000, the department of natural resources shall  
22 indicate whether the notification or application is subject to enhanced  
23 aquatic resource requirements and, unless notified of a contrary  
24 determination by the forest practices appeals board, the department of  
25 revenue shall use such indication in determining the credit to be  
26 allowed against the tax assessed under RCW 84.33.041. The department  
27 of natural resources shall develop revisions to the form of the forest  
28 practices notifications and applications to provide a space for the  
29 applicant to indicate and the department of natural resources to  
30 confirm or not confirm, whether the notification or application is  
31 subject to enhanced aquatic resource requirements. For forest  
32 practices notifications or applications submitted before January 1,  
33 2000, the applicant may submit the approved notification or application  
34 to the department of natural resources for confirmation that the  
35 notification or application is subject to enhanced aquatic resource  
36 requirements. Upon any such submission, the department of natural  
37 resources will within thirty days confirm or deny that the notification  
38 or application is subject to enhanced aquatic resource requirements and  
39 will forward separate evidence of each confirmation to the department

1 of revenue. Unless notified of a contrary ruling by the forest  
2 practices appeals board, the department of revenue shall use the  
3 separate confirmations in determining the credit to be allowed against  
4 the tax assessed under RCW 84.33.041.

5 (5) A refusal by the department of natural resources to confirm  
6 that a notification or application is subject to enhanced aquatic  
7 resources requirements may be appealed to the forest practices appeals  
8 board under RCW 76.09.220.

9 (6) A person receiving approval of credit must keep records  
10 necessary for the department of revenue to verify eligibility under  
11 this section.

12 NEW SECTION. **Sec. 402.** The department of revenue and the  
13 department of natural resources shall conduct a joint study of the tax  
14 credits under section 401 of this act. The study shall examine the  
15 relationship between the amount of tax credit received by each taxpayer  
16 and the extent that the taxpayer's timber harvests have been limited as  
17 a result of complying with enhanced aquatic resource requirements. The  
18 departments shall submit the study to the legislature by November 1,  
19 2002.

20 **PART V**

21 **SMALL FOREST LANDOWNERS**

22 NEW SECTION. **Sec. 501.** A new section is added to chapter 76.13  
23 RCW to read as follows:

24 (1) The legislature finds that increasing regulatory requirements  
25 continue to diminish the economic viability of small forest landowners.  
26 The concerns set forth in section 101 of this act about the importance  
27 of sustaining forestry as a viable land use are particularly applicable  
28 to small landowners because of the location of their holdings, the  
29 expected complexity of the regulatory requirements, and the need for  
30 significant technical expertise not readily available to small  
31 landowners. The further reduction in harvestable timber owned by small  
32 forest landowners as a result of the rules to be adopted under section  
33 201 of this act will further erode small landowners' economic viability  
34 and willingness or ability to keep the lands in forestry use and,  
35 therefore, reduce the amount of habitat available for salmon recovery

1 and conservation of other aquatic resources, as defined in RCW  
2 76.09.020.

3 (2) The legislature finds that the concerns identified in  
4 subsection (1) of this section should be addressed by establishing  
5 within the department of natural resources a small forest landowner  
6 office that shall be a resource and focal point for small forest  
7 landowner concerns and policies. The legislature further finds that a  
8 forestry riparian easement program shall be established to acquire  
9 easements from small landowners along riparian and other areas of value  
10 to the state for protection of aquatic resources. The legislature  
11 further finds that small forest landowners should have the option of  
12 alternate management plans or alternate harvest restrictions on smaller  
13 harvest units that may have a relatively low impact on aquatic  
14 resources. The small forest landowner office should be responsible for  
15 assisting small landowners in the development and implementation of  
16 these plans or restrictions.

17 **Sec. 502.** RCW 76.13.010 and 1991 c 27 s 3 are each amended to read  
18 as follows:

19 Unless the context clearly requires otherwise, the definitions in  
20 this section apply (~~((throughout this chapter))~~) to RCW 76.13.005,  
21 76.13.007, 76.13.020, and 76.13.030.

22 (1) "Department" means the department of natural resources.

23 (2) "Landowner" means an individual, partnership, private, public  
24 or municipal corporation, Indian tribe, state agency, county, or local  
25 government entity, educational institution, or association of  
26 individuals of whatever nature that own nonindustrial forests and  
27 woodlands.

28 (3) "Nonindustrial forests and woodlands" are those suburban  
29 acreages and rural lands supporting or capable of supporting trees and  
30 other flora and fauna associated with a forest ecosystem, comprised of  
31 total individual land ownerships of less than five thousand acres and  
32 not directly associated with wood processing or handling facilities.

33 (4) "Stewardship" means managing by caring for, promoting,  
34 protecting, renewing, or reestablishing or both, forests and associated  
35 resources for the benefit of the landowner, the natural resources and  
36 the citizens of Washington state, in accordance with each landowner's  
37 objectives, best management practices, and legal requirements.

1 (5) "Cooperating organization" means federal, state, and local  
2 agencies, colleges and universities, landowner assistance  
3 organizations, consultants, forest resource-related industries, and  
4 environmental organizations which promote and maintain programs  
5 designed to provide information and technical assistance services to  
6 nonindustrial forest and woodland owners.

7 NEW SECTION. **Sec. 503.** A new section is added to chapter 76.13  
8 RCW to read as follows:

9 (1) The department of natural resources shall establish and  
10 maintain a small forest landowner office. The small forest landowner  
11 office shall be a resource and focal point for small forest landowner  
12 concerns and policies, and shall have significant expertise regarding  
13 the management of small forest holdings, governmental programs  
14 applicable to such holdings, and the forestry riparian easement  
15 program.

16 (2) The small forest landowner office shall administer the  
17 provisions of the forestry riparian easement program created under  
18 section 504 of this act. With respect to that program, the office  
19 shall have the authority to contract with private consultants that the  
20 office finds qualified to perform timber cruises of forestry riparian  
21 easements.

22 (3) The small forest landowner office shall assist in the  
23 development of small landowner options through alternate management  
24 plans or alternate harvest restrictions appropriate to small  
25 landowners. The small forest landowner office shall develop criteria  
26 to be adopted by the forest practices board in a manual for alternate  
27 management plans or alternate harvest restrictions. These alternate  
28 plans or alternate harvest restrictions shall meet riparian functions  
29 while requiring less costly regulatory prescriptions. At the  
30 landowner's option, alternate plans or alternate harvest restrictions  
31 may be used to further meet riparian functions.

32 The small landowner office shall evaluate the cumulative impact of  
33 such alternate management plans or alternate harvest restrictions on  
34 essential riparian functions at the subbasin or watershed level. The  
35 small forest landowner office shall adjust future alternate management  
36 plans or alternate harvest restrictions in a manner that will minimize  
37 the negative impacts on essential riparian functions within a subbasin  
38 or watershed.

1 (4) An advisory committee is established to assist the small forest  
2 landowner office in developing policy and recommending rules to the  
3 forest practices board. The advisory committee shall consist of seven  
4 members, including a representative from the department of ecology, the  
5 department of fish and wildlife, and a tribal representative. Four  
6 additional committee members shall be small forest landowners who shall  
7 be appointed by the commissioner of public lands from a list of  
8 candidates submitted by the board of directors of the Washington farm  
9 forestry association or its successor organization. The association  
10 shall submit more than one candidate for each position. Appointees  
11 shall serve for a term of four years. The small forest landowner  
12 office shall review draft rules or rule concepts with the committee  
13 prior to recommending such rules to the forest practices board. The  
14 office shall reimburse nongovernmental committee members for reasonable  
15 expenses associated with attending committee meetings as provided in  
16 RCW 43.03.050 and 43.03.060.

17 (5) By December 1, 2000, the small forest landowner office shall  
18 provide a report to the board and the legislature containing:

19 (a) Estimates of the amounts of nonindustrial forests and woodlands  
20 in holdings of twenty acres or less, twenty-one to one hundred acres,  
21 one hundred to one thousand acres, and one thousand to five thousand  
22 acres, in western Washington and eastern Washington, and the number of  
23 persons having total nonindustrial forest and woodland holdings in  
24 those size ranges;

25 (b) Estimates of the number of parcels of nonindustrial forests and  
26 woodlands held in contiguous ownerships of twenty acres or less, and  
27 the percentages of those parcels containing improvements used: (i) As  
28 primary residences for half or more of most years; (ii) as vacation  
29 homes or other temporary residences for less than half of most years;  
30 and (iii) for other uses;

31 (c) The watershed administrative units in which significant  
32 portions of the riparian areas or total land area are nonindustrial  
33 forests and woodlands;

34 (d) Estimates of the number of forest practices applications and  
35 notifications filed per year for forest road construction,  
36 silvicultural activities to enhance timber growth, timber harvest not  
37 associated with conversion to nonforest land uses, with estimates of  
38 the number of acres of nonindustrial forests and woodlands on which

1 forest practices are conducted under those applications and  
2 notifications; and

3 (e) Recommendations on ways the board and the legislature could  
4 provide more effective incentives to encourage continued management of  
5 nonindustrial forests and woodlands for forestry uses in ways that  
6 better protect salmon, other fish and wildlife, water quality, and  
7 other environmental values.

8 (6) By December 1, 2002, and every four years thereafter, the small  
9 forest landowner office shall provide to the board and the legislature  
10 an update of the report described in subsection (5) of this section,  
11 containing more recent information and describing:

12 (a) Trends in the items estimated under subsection (5)(a) through  
13 (d) of this section;

14 (b) Whether, how, and to what extent the forest practices act and  
15 rules contributed to those trends; and

16 (c) Whether, how, and to what extent: (i) The board and  
17 legislature implemented recommendations made in the previous report;  
18 and (ii) implementation of or failure to implement those  
19 recommendations affected those trends.

20 NEW SECTION. Sec. 504. A new section is added to chapter 76.13  
21 RCW to read as follows:

22 (1) The legislature finds that the state should acquire easements  
23 along riparian and other sensitive aquatic areas from small forest  
24 landowners willing to sell or donate such easements to the state  
25 provided that the state will not be required to acquire such easements  
26 if they are subject to unacceptable liabilities. The legislature  
27 therefore establishes a forestry riparian easement program.

28 (2) The definitions in this subsection apply throughout this  
29 section and sections 501 and 503 of this act unless the context clearly  
30 requires otherwise.

31 (a) "Forestry riparian easement" means an easement covering  
32 qualifying timber granted voluntarily to the state by a small forest  
33 landowner.

34 (b) "Qualifying timber" means those trees covered by a forest  
35 practices application that the small forest landowner is required to  
36 leave unharvested under the rules adopted under sections 201 and 204 of  
37 this act or that is made uneconomic to harvest by those rules, and for  
38 which the small landowner is willing to grant the state a forestry

1 riparian easement. "Qualifying timber" is timber within or bordering  
2 a commercially reasonable harvest unit as determined under rules  
3 adopted by the forest practices board.

4 (c) "Small forest landowner" means a landowner meeting all of the  
5 following characteristics: (i) A forest landowner as defined in RCW  
6 76.09.020 whose interest in the land and timber is in fee or who has  
7 rights to the timber to be included in the forestry riparian easement  
8 that extend at least fifty years from the date the forest practices  
9 application associated with the easement is submitted; (ii) an entity  
10 that has harvested from its own lands in this state during the three  
11 years prior to the year of application an average timber volume that  
12 would qualify the owner as a small timber harvester under RCW  
13 84.33.073(1); and (iii) an entity that certifies at the time of  
14 application that it does not expect to harvest from its own lands more  
15 than the volume allowed by RCW 84.33.073(1) during the ten years  
16 following application. If a landowner's prior three-year average  
17 harvest exceeds the limit of RCW 84.33.073(1), or the landowner expects  
18 to exceed this limit during the ten years following application, and  
19 that landowner establishes to the department of natural resources'  
20 reasonable satisfaction that the harvest limits were or will be  
21 exceeded to raise funds to pay estate taxes or equally compelling and  
22 unexpected obligations such as court-ordered judgments or extraordinary  
23 medical expenses, the landowner shall be deemed to be a small forest  
24 landowner.

25 For purposes of determining whether a person qualifies as a small  
26 forest landowner, the small forest landowner office, created in section  
27 503 of this act, shall evaluate the landowner under this definition as  
28 of the date that the forest practices application is submitted with  
29 which the forestry riparian easement is associated. A small forest  
30 landowner can include an individual, partnership, corporate, or other  
31 nongovernmental legal entity. If a landowner grants timber rights to  
32 another entity for less than five years, the landowner may still  
33 qualify as a small forest landowner under this section.

34 (d) "Completion of harvest" means that the trees have been  
35 harvested from an area and that further entry into that area by  
36 mechanized logging or slash treating equipment is not expected.

37 (3) The department of natural resources is authorized and directed  
38 to accept and hold in the name of the state of Washington forestry  
39 riparian easements granted by small forest landowners covering



1 qualifying timber and to pay compensation to such landowners in  
2 accordance with subsections (6) and (7) of this section. The  
3 department of natural resources may not transfer the easements to any  
4 entity other than another state agency.

5 (4) Forestry riparian easements shall be effective for fifty years  
6 from the date the forest practices application associated with the  
7 qualifying timber is submitted to the department of natural resources,  
8 unless the easement is terminated earlier by the department of natural  
9 resources voluntarily, based on a determination that termination is in  
10 the best interest of the state, or under the terms of a termination  
11 clause in the easement.

12 (5) Forestry riparian easements shall be restrictive only, and  
13 shall preserve all lawful uses of the easement premises by the  
14 landowner that are consistent with the terms of the easement and the  
15 requirement to protect riparian functions during the term of the  
16 easement, subject to the restriction that the leave trees required by  
17 the rules to be left on the easement premises may not be cut during the  
18 term of the easement. No right of public access to or across, or any  
19 public use of the easement premises is created by this statute or by  
20 the easement. Forestry riparian easements shall not be deemed to  
21 trigger the compensating tax of or otherwise disqualify land from being  
22 taxed under chapter 84.33 or 84.34 RCW.

23 (6) Upon application of a small forest landowner for a riparian  
24 easement that is associated with a forest practices application and the  
25 landowner's marking of the qualifying timber on the qualifying lands,  
26 the small forest landowner office shall determine the compensation to  
27 be offered to the small landowner as provided for in this section. The  
28 legislature recognizes that there is not readily available market  
29 transaction evidence of value for easements of this nature, and thus  
30 establishes the following methodology to ascertain the value for  
31 forestry riparian easements. Values so determined shall not be  
32 considered competent evidence of value for any other purpose.

33 The small forest landowner office shall establish the volume of the  
34 qualifying timber. Based on that volume and using data obtained or  
35 maintained by the department of revenue under RCW 84.33.074 and  
36 84.33.091, the small forest landowner office shall attempt to determine  
37 the fair market value of the qualifying timber as of the date the  
38 forest practices application associated with the qualifying timber was  
39 submitted. If, under the forest practices rules adopted under

1 chapter. . . , Laws of 1999 (this act), some qualifying timber may be  
2 removed prior to the expiration of the fifty-year term of the easement,  
3 the small forest landowner office shall apply a reduced compensation  
4 factor to ascertain the value of those trees based on the proportional  
5 economic value, considering income and growth, lost to the landowner.

6 (7) Except as provided in subsection (8) of this section, the small  
7 forest landowner office shall, subject to available funding, offer  
8 compensation to the small forest landowner in the amount of fifty  
9 percent of the value determined in subsection (6) of this section. If  
10 the landowner accepts the offer, the department of natural resources  
11 shall pay the compensation promptly upon (a) completion of harvest in  
12 the area covered by the forestry riparian easement; (b) verification  
13 that there has been compliance with the rules requiring leave trees in  
14 the easement area; and (c) execution and delivery of the easement to  
15 the department of natural resources. Upon donation or payment of  
16 compensation, the department of natural resources may record the  
17 easement.

18 (8) For approved forest practice applications where the regulatory  
19 impact is greater than the average percentage impact for all small  
20 landowners as determined by the department of natural resources  
21 analysis under the regulatory fairness act, chapter 19.85 RCW, the  
22 compensation offered will be increased to one hundred percent for that  
23 portion of the regulatory impact that is in excess of the average.  
24 Regulatory impact includes trees left in buffers, special management  
25 zones, and those rendered uneconomic to harvest by these rules. A  
26 separate average or high impact regulatory threshold shall be  
27 established for western and eastern Washington. Criteria for these  
28 measurements and payments shall be established by the small forest  
29 landowner office.

30 (9) The forest practices board shall adopt rules under the  
31 administrative procedure act, chapter 34.05 RCW, to implement the  
32 forestry riparian easement program, including the following:

33 (a) A standard version or versions of all documents necessary or  
34 advisable to create the forestry riparian easements as provided for in  
35 this section;

36 (b) Standards for descriptions of the easement premises with a  
37 degree of precision that is reasonable in relation to the values  
38 involved;

1 (c) Methods and standards for cruises and valuation of forestry  
2 riparian easements for purposes of establishing the compensation. The  
3 department of natural resources shall perform the timber cruises of  
4 forestry riparian easements required under this chapter and chapter  
5 76.09 RCW. Any rules concerning the methods and standards for  
6 valuations of forestry riparian easements shall apply only to the  
7 department of natural resources, small forest landowners, and the small  
8 forest landowner office;

9 (d) A method to determine that a forest practice application  
10 involves a commercially reasonable harvest;

11 (e) A method to address blowdown of qualified timber falling  
12 outside the easement premises;

13 (f) A formula for sharing of proceeds in relation to the  
14 acquisition of qualified timber covered by an easement through the  
15 exercise or threats of eminent domain by a federal or state agency with  
16 eminent domain authority, based on the present value of the department  
17 of natural resources' and the landowner's relative interests in the  
18 qualified timber;

19 (g) High impact regulatory thresholds;

20 (h) A method to determine timber that is qualifying timber because  
21 it is rendered uneconomic to harvest by the rules adopted under  
22 sections 201 and 204 of this act; and

23 (i) A method for internal department of natural resources review of  
24 small landowner office compensation decisions under subsection (7) of  
25 this section.

26 NEW SECTION. **Sec. 505.** A new section is added to chapter 76.13  
27 RCW to read as follows:

28 On parcels of twenty contiguous acres or less, landowners with a  
29 total parcel ownership of less than eighty acres shall not be required  
30 to leave riparian buffers adjacent to streams according to forest  
31 practices rules adopted under the forests and fish report as defined in  
32 RCW 76.09.020. These landowners shall be subject to the current forest  
33 practices rules in effect as of January 1, 1999, but may additionally  
34 be required to leave timber adjacent to streams that is equivalent to  
35 no greater than fifteen percent of a volume of timber contained in a  
36 stand of well managed fifty-year old commercial timber covering the  
37 harvest area. The additional fifteen percent leave tree level shall be  
38 computed as a rotating stand volume and shall be regulated through

1 flexible forest practices as the stream buffer is managed over time to  
2 meet riparian functions.

3 On parcels of twenty contiguous acres or less the small forest  
4 landowner office shall work with landowners with a total parcel  
5 ownership of less than eighty acres to develop alternative management  
6 plans for riparian buffers. Such alternative plans shall provide for  
7 the removal of leave trees as other new trees grow in order to ensure  
8 the most effective protection of critical riparian function. The  
9 office may recommend reasonable modifications in alternative management  
10 plans of such landowners to further reduce risks to public resources  
11 and endangered species so long as the anticipated operating costs are  
12 not unreasonably increased and the landowner is not required to leave  
13 a greater volume than the threshold level. To qualify for the  
14 provisions of this section, parcels must be twenty acres or less in  
15 contiguous ownership, and owners cannot have ownership interests in a  
16 total of more than eighty acres of forest lands within the state.

17 **PART VI**

18 **LARGE WOODY DEBRIS**

19 **Sec. 601.** RCW 76.42.060 and 1973 c 136 s 7 are each amended to  
20 read as follows:

21 It shall be unlawful to dispose of wood debris by depositing such  
22 material into any of the navigable waters of this state, except as  
23 authorized by law including any discharge or deposit allowed to be made  
24 under and in compliance with chapter 90.48 RCW and any rules ((or  
25 regulations)) duly ((promulgated)) adopted thereunder or any deposit  
26 allowed to be made under and in compliance with chapter 76.09 or 75.46  
27 RCW and any rules duly adopted under those chapters. Violation of this  
28 section shall be a misdemeanor.

29 **Sec. 602.** RCW 76.09.330 and 1992 c 52 s 5 are each amended to read  
30 as follows:

31 The legislature hereby finds and declares that riparian ecosystems  
32 on forest lands in addition to containing valuable timber resources,  
33 provide benefits for wildlife, fish, and water quality. The  
34 legislature further finds and declares that leaving riparian areas  
35 unharvested and leaving snags and green trees for large woody debris  
36 recruitment for streams and rivers provides public benefits including

1 but not limited to benefits for threatened and endangered salmonids,  
2 other fish, amphibians, wildlife, and water quality enhancement. The  
3 legislature further finds and declares that leaving upland areas  
4 unharvested for wildlife and leaving snags and green trees for future  
5 snag recruitment provides benefits for wildlife. Forest landowners may  
6 be required to leave trees standing in riparian and upland areas to  
7 benefit public resources. It is recognized that these trees may blow  
8 down or fall into streams and that organic debris may be allowed to  
9 remain in streams. This is beneficial to riparian dependent and other  
10 wildlife species. Further, it is recognized that trees may blow down,  
11 fall onto, or otherwise cause damage or injury to public improvements,  
12 private property, and persons. Notwithstanding any statutory  
13 provision, rule, or common law doctrine to the contrary, the landowner,  
14 the department, and the state of Washington shall not be held liable  
15 for any injury or damages resulting from these actions, including but  
16 not limited to wildfire, erosion, flooding, personal injury, property  
17 damage, damage to public improvements, and other injury or damages of  
18 any kind or character resulting from the trees being left.

19 **PART VII**

20 **RIPARIAN OPEN SPACE**

21 **Sec. 701.** RCW 76.09.040 and 1997 c 173 s 1 are each amended to  
22 read as follows:

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

28 (a) Establish minimum standards for forest practices;

29 (b) Provide procedures for the voluntary development of resource  
30 management plans which may be adopted as an alternative to the minimum  
31 standards in (a) of this subsection if the plan is consistent with the  
32 purposes and policies stated in RCW 76.09.010 and the plan meets or  
33 exceeds the objectives of the minimum standards;

34 (c) Set forth necessary administrative provisions; (~~and~~)

35 (d) Establish procedures for the collection and administration of  
36 forest practice fees as set forth by this chapter; and

37 (e) Allow for the development of watershed analyses.

1 Forest practices ((~~regulations~~)) rules pertaining to water quality  
2 protection shall be ((~~promulgated individually~~)) adopted by the board  
3 ((~~and by the department of ecology~~)) after ((~~they have reached~~))  
4 reaching agreement with the director of the department of ecology or  
5 the director's designee on the board with respect thereto. All other  
6 forest practices ((~~regulations~~)) rules shall be ((~~promulgated~~)) adopted  
7 by the board.

8 Forest practices ((~~regulations~~)) rules shall be administered and  
9 enforced by either the department or the local governmental entity as  
10 provided in this chapter. Such ((~~regulations~~)) rules shall be  
11 ((~~promulgated~~)) adopted and administered so as to give consideration to  
12 all purposes and policies set forth in RCW 76.09.010.

13 (2) The board shall prepare proposed forest practices  
14 ((~~regulations~~)) rules. In addition to any forest practices  
15 ((~~regulations~~)) rules relating to water quality protection proposed by  
16 the board, the department of ecology ((~~shall prepare~~)) may submit to  
17 the board proposed forest practices ((~~regulations~~)) rules relating to  
18 water quality protection.

19 Prior to initiating the rule making process, the proposed  
20 ((~~regulations~~)) rules shall be submitted for review and comments to the  
21 department of fish and wildlife and to the counties of the state.  
22 After receipt of the proposed forest practices ((~~regulations~~)) rules,  
23 the department of fish and wildlife and the counties of the state shall  
24 have thirty days in which to review and submit comments to the board,  
25 and to the department of ecology with respect to its proposed  
26 ((~~regulations~~)) rules relating to water quality protection. After the  
27 expiration of such thirty day period the board and the department of  
28 ecology shall jointly hold one or more hearings on the proposed  
29 ((~~regulations~~)) rules pursuant to chapter 34.05 RCW. At such  
30 hearing(s) any county may propose specific forest practices  
31 ((~~regulations~~)) rules relating to problems existing within such county.  
32 The board may adopt and the department of ecology may ((~~adopt~~)) approve  
33 such proposals if they find the proposals are consistent with the  
34 purposes and policies of this chapter.

35 (3) The board shall establish by rule a riparian open space program  
36 that includes acquisition of a fee interest in, or at the landowner's  
37 option, a conservation easement on lands within unconfined avulsing  
38 channel migration zones. Once acquired, these lands may be held and  
39 managed by the department, transferred to another state agency,

1 transferred to an appropriate local government agency, or transferred  
2 to a private nonprofit nature conservation corporation, as defined in  
3 RCW 64.04.130, in fee or transfer of management obligation. The board  
4 shall adopt rules governing the acquisition by the state or donation to  
5 the state of such interest in lands including the right of refusal if  
6 the lands are subject to unacceptable liabilities. The rules shall  
7 include definitions of qualifying lands, priorities for acquisition,  
8 and provide for the opportunity to transfer such lands with limited  
9 warranties and with a description of boundaries that does not require  
10 full surveys where the cost of securing the surveys would be  
11 unreasonable in relation to the value of the lands conveyed. The rules  
12 shall provide for the management of the lands for ecological protection  
13 or fisheries enhancement. Because there are few, if any, comparable  
14 sales of forest land within unconfined avulsing channel migration  
15 zones, separate from the other lands or assets, these lands are likely  
16 to be extraordinarily difficult to appraise and the cost of a  
17 conventional appraisal often would be unreasonable in relation to the  
18 value of the land involved. Therefore, for the purposes of voluntary  
19 sales under this section, the legislature declares that these lands are  
20 presumed to have a value equal to: (a) The acreage in the sale  
21 multiplied by the average value of commercial forest land in the region  
22 under the land value tables used for property tax purposes under RCW  
23 84.33.120; plus (b) the cruised volume of any timber located within the  
24 channel migration multiplied by the appropriate quality code stumpage  
25 value for timber of the same species shown on the appropriate table  
26 used for timber harvest excise tax purposes under RCW 84.33.091. For  
27 purposes of this section, there shall be an eastside region and a  
28 westside region as defined in the forests and fish report as defined in  
29 RCW 76.09.020.

30 (4) Subject to appropriations sufficient to cover the cost of such  
31 an acquisition program and the related costs of administering the  
32 program, the department is directed to purchase a fee interest or, at  
33 the owner's option, a conservation easement in land that an owner  
34 tenders for purchase; provided that such lands have been taxed as  
35 forest lands and are located within an unconfined avulsing channel  
36 migration zone. Lands acquired under this section shall become  
37 riparian open space. These acquisitions shall not be deemed to trigger  
38 the compensating tax of chapters 84.33 and 84.34 RCW.

1       (5) Instead of offering to sell interests in qualifying lands,  
2 owners may elect to donate the interests to the state.

3       (6) Any acquired interest in qualifying lands by the state under  
4 this section shall be managed as riparian open space.

5       **Sec. 702.** RCW 84.33.120 and 1999 c 233 s 20 are each amended to  
6 read as follows:

7       (1) In preparing the assessment rolls as of January 1, 1982, for  
8 taxes payable in 1983 and each January 1st thereafter, the assessor  
9 shall list each parcel of forest land at a value with respect to the  
10 grade and class provided in this subsection and adjusted as provided in  
11 subsection (2) of this section and shall compute the assessed value of  
12 the land by using the same assessment ratio he or she applies generally  
13 in computing the assessed value of other property in his or her county.  
14 Values for the several grades of bare forest land shall be as follows.

15	LAND	OPERABILITY	VALUES
16	GRADE	CLASS	PER ACRE
17			
18		1	\$141
19	1	2	136
20		3	131
21		4	95
22			
23		1	118
24	2	2	114
25		3	110
26		4	80
27			
28		1	93
29	3	2	90
30		3	87
31		4	66
32			
33		1	70
34	4	2	68
35		3	66
36		4	52
37			



1		1	51
2	5	2	48
3		3	46
4		4	31
5	<hr/>		
6		1	26
7	6	2	25
8		3	25
9		4	23
10	<hr/>		
11		1	12
12	7	2	12
13		3	11
14		4	11
15	<hr/>		
16	8		1
17	<hr/>		

18       (2) On or before December 31, 1981, the department shall adjust, by  
19 rule under chapter 34.05 RCW, the forest land values contained in  
20 subsection (1) of this section in accordance with this subsection, and  
21 shall certify these adjusted values to the county assessor for his or  
22 her use in preparing the assessment rolls as of January 1, 1982. For  
23 the adjustment to be made on or before December 31, 1981, for use in  
24 the 1982 assessment year, the department shall:

25       (a) Divide the aggregate value of all timber harvested within the  
26 state between July 1, 1976, and June 30, 1981, by the aggregate harvest  
27 volume for the same period, as determined from the harvester excise tax  
28 returns filed with the department under RCW 82.04.291 and 84.33.071;  
29 and

30       (b) Divide the aggregate value of all timber harvested within the  
31 state between July 1, 1975, and June 30, 1980, by the aggregate harvest  
32 volume for the same period, as determined from the harvester excise tax  
33 returns filed with the department under RCW 82.04.291 and 84.33.071;  
34 and

35       (c) Adjust the forest land values contained in subsection (1) of  
36 this section by a percentage equal to one-half of the percentage change  
37 in the average values of harvested timber reflected by comparing the  
38 resultant values calculated under (a) and (b) of this subsection.

1 For the adjustments to be made on or before December 31, 1982, and  
2 each succeeding year thereafter, the same procedure shall be followed  
3 as described in this subsection utilizing harvester excise tax returns  
4 filed under RCW 82.04.291 and this chapter except that this adjustment  
5 shall be made to the prior year's adjusted value, and the five-year  
6 periods for calculating average harvested timber values shall be  
7 successively one year more recent.

8 (3) In preparing the assessment roll for 1972 and each year  
9 thereafter, the assessor shall enter as the true and fair value of each  
10 parcel of forest land the appropriate grade value certified to him or  
11 her by the department of revenue, and he or she shall compute the  
12 assessed value of such land by using the same assessment ratio he or  
13 she applies generally in computing the assessed value of other property  
14 in his or her county. In preparing the assessment roll for 1975 and  
15 each year thereafter, the assessor shall assess and value as classified  
16 forest land all forest land that is not then designated pursuant to RCW  
17 84.33.120(4) or 84.33.130 and shall make a notation of such  
18 classification upon the assessment and tax rolls. On or before January  
19 15 of the first year in which such notation is made, the assessor shall  
20 mail notice by certified mail to the owner that such land has been  
21 classified as forest land and is subject to the compensating tax  
22 imposed by this section. If the owner desires not to have such land  
23 assessed and valued as classified forest land, he or she shall give the  
24 assessor written notice thereof on or before March 31 of such year and  
25 the assessor shall remove from the assessment and tax rolls the  
26 classification notation entered pursuant to this subsection, and shall  
27 thereafter assess and value such land in the manner provided by law  
28 other than this chapter 84.33 RCW.

29 (4) In any year commencing with 1972, an owner of land which is  
30 assessed and valued by the assessor other than pursuant to the  
31 procedures set forth in RCW 84.33.110 and this section, and which has,  
32 in the immediately preceding year, been assessed and valued by the  
33 assessor as forest land, may appeal to the county board of equalization  
34 by filing an application with the board in the manner prescribed in  
35 subsection (2) of RCW 84.33.130. The county board shall afford the  
36 applicant an opportunity to be heard if the application so requests and  
37 shall act upon the application in the manner prescribed in subsection  
38 (3) of RCW 84.33.130.

1 (5) Land that has been assessed and valued as classified forest  
2 land as of any year commencing with 1975 assessment year or earlier  
3 shall continue to be so assessed and valued until removal of  
4 classification by the assessor only upon the occurrence of one of the  
5 following events:

6 (a) Receipt of notice from the owner to remove such land from  
7 classification as forest land;

8 (b) Sale or transfer to an ownership making such land exempt from  
9 ad valorem taxation;

10 (c) Determination by the assessor, after giving the owner written  
11 notice and an opportunity to be heard, that, because of actions taken  
12 by the owner, such land is no longer primarily devoted to and used for  
13 growing and harvesting timber. However, land shall not be removed from  
14 classification if a governmental agency, organization, or other  
15 recipient identified in subsection (9) or (10) of this section as  
16 exempt from the payment of compensating tax has manifested its intent  
17 in writing or by other official action to acquire a property interest  
18 in classified forest land by means of a transaction that qualifies for  
19 an exemption under subsection (9) or (10) of this section. The  
20 governmental agency, organization, or recipient shall annually provide  
21 the assessor of the county in which the land is located reasonable  
22 evidence in writing of the intent to acquire the classified land as  
23 long as the intent continues or within sixty days of a request by the  
24 assessor. The assessor may not request this evidence more than once in  
25 a calendar year;

26 (d) Determination that a higher and better use exists for such land  
27 than growing and harvesting timber after giving the owner written  
28 notice and an opportunity to be heard;

29 (e) Sale or transfer of all or a portion of such land to a new  
30 owner, unless the new owner has signed a notice of forest land  
31 classification continuance, except transfer to an owner who is an heir  
32 or devisee of a deceased owner, shall not, by itself, result in removal  
33 of classification. The signed notice of continuance shall be attached  
34 to the real estate excise tax affidavit provided for in RCW 82.45.150.  
35 The notice of continuance shall be on a form prepared by the department  
36 of revenue. If the notice of continuance is not signed by the new  
37 owner and attached to the real estate excise tax affidavit, all  
38 compensating taxes calculated pursuant to subsection (7) of this  
39 section shall become due and payable by the seller or transferor at

1 time of sale. The county auditor shall not accept an instrument of  
2 conveyance of classified forest land for filing or recording unless the  
3 new owner has signed the notice of continuance or the compensating tax  
4 has been paid, as evidenced by the real estate excise tax stamp affixed  
5 thereto by the treasurer. The seller, transferor, or new owner may  
6 appeal the new assessed valuation calculated under subsection (7) of  
7 this section to the county board of equalization. Jurisdiction is  
8 hereby conferred on the county board of equalization to hear these  
9 appeals.

10 The assessor shall remove classification pursuant to (c) or (d) of  
11 this subsection prior to September 30 of the year prior to the  
12 assessment year for which termination of classification is to be  
13 effective. Removal of classification as forest land upon occurrence of  
14 (a), (b), (d), or (e) of this subsection shall apply only to the land  
15 affected, and upon occurrence of (c) of this subsection shall apply  
16 only to the actual area of land no longer primarily devoted to and used  
17 for growing and harvesting timber: PROVIDED, That any remaining  
18 classified forest land meets necessary definitions of forest land  
19 pursuant to RCW 84.33.100.

20 (6) Within thirty days after such removal of classification as  
21 forest land, the assessor shall notify the owner in writing setting  
22 forth the reasons for such removal. The owner of such land shall  
23 thereupon have the right to apply for designation of such land as  
24 forest land pursuant to subsection (4) of this section or RCW  
25 84.33.130. The seller, transferor, or owner may appeal such removal to  
26 the county board of equalization.

27 (7) Unless the owner successfully applies for designation of such  
28 land or unless the removal is reversed on appeal, notation of removal  
29 from classification shall immediately be made upon the assessment and  
30 tax rolls, and commencing on January 1 of the year following the year  
31 in which the assessor made such notation, such land shall be assessed  
32 on the same basis as real property is assessed generally in that  
33 county. Except as provided in subsection (5)(e), (9), or (10) of this  
34 section and unless the assessor shall not have mailed notice of  
35 classification pursuant to subsection (3) of this section, a  
36 compensating tax shall be imposed which shall be due and payable to the  
37 county treasurer thirty days after the owner is notified of the amount  
38 of the compensating tax. As soon as possible, the assessor shall  
39 compute the amount of such compensating tax and mail notice to the

1 owner of the amount thereof and the date on which payment is due. The  
2 amount of such compensating tax shall be equal to the difference, if  
3 any, between the amount of tax last levied on such land as forest land  
4 and an amount equal to the new assessed valuation of such land  
5 multiplied by the dollar rate of the last levy extended against such  
6 land, multiplied by a number, in no event greater than ten, equal to  
7 the number of years, commencing with assessment year 1975, for which  
8 such land was assessed and valued as forest land.

9 (8) Compensating tax, together with applicable interest thereon,  
10 shall become a lien on such land which shall attach at the time such  
11 land is removed from classification as forest land and shall have  
12 priority to and shall be fully paid and satisfied before any  
13 recognizance, mortgage, judgment, debt, obligation or responsibility to  
14 or with which such land may become charged or liable. Such lien may be  
15 foreclosed upon expiration of the same period after delinquency and in  
16 the same manner provided by law for foreclosure of liens for delinquent  
17 real property taxes as provided in RCW 84.64.050. Any compensating tax  
18 unpaid on its due date shall thereupon become delinquent. From the  
19 date of delinquency until paid, interest shall be charged at the same  
20 rate applied by law to delinquent ad valorem property taxes.

21 (9) The compensating tax specified in subsection (7) of this  
22 section shall not be imposed if the removal of classification as forest  
23 land pursuant to subsection (5) of this section resulted solely from:

24 (a) Transfer to a government entity in exchange for other forest  
25 land located within the state of Washington;

26 (b) A taking through the exercise of the power of eminent domain,  
27 or sale or transfer to an entity having the power of eminent domain in  
28 anticipation of the exercise of such power;

29 (c) A donation of fee title, development rights, or the right to  
30 harvest timber, to a government agency or organization qualified under  
31 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those  
32 sections, or the sale or transfer of fee title to a governmental entity  
33 or a nonprofit nature conservancy corporation, as defined in RCW  
34 64.04.130, exclusively for the protection and conservation of lands  
35 recommended for state natural area preserve purposes by the natural  
36 heritage council and natural heritage plan as defined in chapter 79.70  
37 RCW: PROVIDED, That at such time as the land is not used for the  
38 purposes enumerated, the compensating tax specified in subsection (7)  
39 of this section shall be imposed upon the current owner;

1 (d) The sale or transfer of fee title to the parks and recreation  
2 commission for park and recreation purposes; ((or))

3 (e) Official action by an agency of the state of Washington or by  
4 the county or city within which the land is located that disallows the  
5 present use of such land;

6 (f) The creation, sale, or transfer of forestry riparian easements  
7 under section 504 of this act; or

8 (g) The creation, sale, or transfer of a fee interest or a  
9 conservation easement for the riparian open space program under RCW  
10 76.09.040.

11 (10) In a county with a population of more than one million  
12 inhabitants, the compensating tax specified in subsection (7) of this  
13 section shall not be imposed if the removal of classification as forest  
14 land pursuant to subsection (5) of this section resulted solely from:

15 (a) An action described in subsection (9) of this section; or

16 (b) A transfer of a property interest to a government entity, or to  
17 a nonprofit historic preservation corporation or nonprofit nature  
18 conservancy corporation, as defined in RCW 64.04.130, to protect or  
19 enhance public resources, or to preserve, maintain, improve, restore,  
20 limit the future use of, or otherwise to conserve for public use or  
21 enjoyment, the property interest being transferred. At such time as  
22 the property interest is not used for the purposes enumerated, the  
23 compensating tax shall be imposed upon the current owner.

24 (11) With respect to any land that has been designated prior to May  
25 6, 1974, pursuant to RCW 84.33.120(4) or 84.33.130, the assessor may,  
26 prior to January 1, 1975, on his or her own motion or pursuant to  
27 petition by the owner, change, without imposition of the compensating  
28 tax provided under RCW 84.33.140, the status of such designated land to  
29 classified forest land.

30 **Sec. 703.** RCW 84.33.140 and 1999 c 233 s 21 are each amended to  
31 read as follows:

32 (1) When land has been designated as forest land pursuant to RCW  
33 84.33.120(4) or 84.33.130, a notation of such designation shall be made  
34 each year upon the assessment and tax rolls, a copy of the notice of  
35 approval together with the legal description or assessor's tax lot  
36 numbers for such land shall, at the expense of the applicant, be filed  
37 by the assessor in the same manner as deeds are recorded, and such land  
38 shall be graded and valued pursuant to RCW 84.33.110 and 84.33.120

1 until removal of such designation by the assessor upon occurrence of  
2 any of the following:

3 (a) Receipt of notice from the owner to remove such designation;

4 (b) Sale or transfer to an ownership making such land exempt from  
5 ad valorem taxation;

6 (c) Sale or transfer of all or a portion of such land to a new  
7 owner, unless the new owner has signed a notice of forest land  
8 designation continuance, except transfer to an owner who is an heir or  
9 devisee of a deceased owner, shall not, by itself, result in removal of  
10 classification. The signed notice of continuance shall be attached to  
11 the real estate excise tax affidavit provided for in RCW 82.45.150.  
12 The notice of continuance shall be on a form prepared by the department  
13 of revenue. If the notice of continuance is not signed by the new  
14 owner and attached to the real estate excise tax affidavit, all  
15 compensating taxes calculated pursuant to subsection (3) of this  
16 section shall become due and payable by the seller or transferor at  
17 time of sale. The county auditor shall not accept an instrument of  
18 conveyance of designated forest land for filing or recording unless the  
19 new owner has signed the notice of continuance or the compensating tax  
20 has been paid, as evidenced by the real estate excise tax stamp affixed  
21 thereto by the treasurer. The seller, transferor, or new owner may  
22 appeal the new assessed valuation calculated under subsection (3) of  
23 this section to the county board of equalization. Jurisdiction is  
24 hereby conferred on the county board of equalization to hear these  
25 appeals;

26 (d) Determination by the assessor, after giving the owner written  
27 notice and an opportunity to be heard, that:

28 (i) Such land is no longer primarily devoted to and used for  
29 growing and harvesting timber. However, land shall not be removed from  
30 designation if a governmental agency, organization, or other recipient  
31 identified in subsection (5) or (6) of this section as exempt from the  
32 payment of compensating tax has manifested its intent in writing or by  
33 other official action to acquire a property interest in designated  
34 forest land by means of a transaction that qualifies for an exemption  
35 under subsection (5) or (6) of this section. The governmental agency,  
36 organization, or recipient shall annually provide the assessor of the  
37 county in which the land is located reasonable evidence in writing of  
38 the intent to acquire the designated land as long as the intent  
39 continues or within sixty days of a request by the assessor. The

1 assessor may not request this evidence more than once in a calendar  
2 year;

3 (ii) The owner has failed to comply with a final administrative or  
4 judicial order with respect to a violation of the restocking, forest  
5 management, fire protection, insect and disease control and forest  
6 debris provisions of Title 76 RCW or any applicable regulations  
7 thereunder; or

8 (iii) Restocking has not occurred to the extent or within the time  
9 specified in the application for designation of such land.

10 Removal of designation upon occurrence of any of (a) through (c) of  
11 this subsection shall apply only to the land affected, and upon  
12 occurrence of (d) of this subsection shall apply only to the actual  
13 area of land no longer primarily devoted to and used for growing and  
14 harvesting timber, without regard to other land that may have been  
15 included in the same application and approval for designation:  
16 PROVIDED, That any remaining designated forest land meets necessary  
17 definitions of forest land pursuant to RCW 84.33.100.

18 (2) Within thirty days after such removal of designation of forest  
19 land, the assessor shall notify the owner in writing, setting forth the  
20 reasons for such removal. The seller, transferor, or owner may appeal  
21 such removal to the county board of equalization.

22 (3) Unless the removal is reversed on appeal a copy of the notice  
23 of removal with notation of the action, if any, upon appeal, together  
24 with the legal description or assessor's tax lot numbers for the land  
25 removed from designation shall, at the expense of the applicant, be  
26 filed by the assessor in the same manner as deeds are recorded, and  
27 commencing on January 1 of the year following the year in which the  
28 assessor mailed such notice, such land shall be assessed on the same  
29 basis as real property is assessed generally in that county. Except as  
30 provided in subsection (1)(c), (5), or (6) of this section, a  
31 compensating tax shall be imposed which shall be due and payable to the  
32 county treasurer thirty days after the owner is notified of the amount  
33 of the compensating tax. As soon as possible, the assessor shall  
34 compute the amount of such compensating tax and mail notice to the  
35 owner of the amount thereof and the date on which payment is due. The  
36 amount of such compensating tax shall be equal to the difference  
37 between the amount of tax last levied on such land as forest land and  
38 an amount equal to the new assessed valuation of such land multiplied  
39 by the dollar rate of the last levy extended against such land,



1 multiplied by a number, in no event greater than ten, equal to the  
2 number of years for which such land was designated as forest land.

3 (4) Compensating tax, together with applicable interest thereon,  
4 shall become a lien on such land which shall attach at the time such  
5 land is removed from designation as forest land and shall have priority  
6 to and shall be fully paid and satisfied before any recognizance,  
7 mortgage, judgment, debt, obligation or responsibility to or with which  
8 such land may become charged or liable. Such lien may be foreclosed  
9 upon expiration of the same period after delinquency and in the same  
10 manner provided by law for foreclosure of liens for delinquent real  
11 property taxes as provided in RCW 84.64.050. Any compensating tax  
12 unpaid on its due date shall thereupon become delinquent. From the  
13 date of delinquency until paid, interest shall be charged at the same  
14 rate applied by law to delinquent ad valorem property taxes.

15 (5) The compensating tax specified in subsection (3) of this  
16 section shall not be imposed if the removal of designation pursuant to  
17 subsection (1) of this section resulted solely from:

18 (a) Transfer to a government entity in exchange for other forest  
19 land located within the state of Washington;

20 (b) A taking through the exercise of the power of eminent domain,  
21 or sale or transfer to an entity having the power of eminent domain in  
22 anticipation of the exercise of such power;

23 (c) A donation of fee title, development rights, or the right to  
24 harvest timber, to a government agency or organization qualified under  
25 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those  
26 sections, or the sale or transfer of fee title to a governmental entity  
27 or a nonprofit nature conservancy corporation, as defined in RCW  
28 64.04.130, exclusively for the protection and conservation of lands  
29 recommended for state natural area preserve purposes by the natural  
30 heritage council and natural heritage plan as defined in chapter 79.70  
31 RCW: PROVIDED, That at such time as the land is not used for the  
32 purposes enumerated, the compensating tax specified in subsection (3)  
33 of this section shall be imposed upon the current owner;

34 (d) The sale or transfer of fee title to the parks and recreation  
35 commission for park and recreation purposes; ((or))

36 (e) Official action by an agency of the state of Washington or by  
37 the county or city within which the land is located that disallows the  
38 present use of such land;

1       (f) The creation, sale, or transfer of forestry riparian easements  
2 under section 504 of this act; or

3       (g) The creation, sale, or transfer of a fee interest or a  
4 conservation easement for the riparian open space program under RCW  
5 76.09.040.

6       (6) In a county with a population of more than one million  
7 inhabitants, the compensating tax specified in subsection (3) of this  
8 section shall not be imposed if the removal of classification as forest  
9 land pursuant to subsection (1) of this section resulted solely from:

10       (a) An action described in subsection (5) of this section; or

11       (b) A transfer of a property interest to a government entity, or to  
12 a nonprofit historic preservation corporation or nonprofit nature  
13 conservancy corporation, as defined in RCW 64.04.130, to protect or  
14 enhance public resources, or to preserve, maintain, improve, restore,  
15 limit the future use of, or otherwise to conserve for public use or  
16 enjoyment, the property interest being transferred. At such time as  
17 the property interest is not used for the purposes enumerated, the  
18 compensating tax shall be imposed upon the current owner.

19       **Sec. 704.** RCW 84.33.145 and 1997 c 299 s 3 are each amended to  
20 read as follows:

21       (1) If no later than thirty days after removal of classification or  
22 designation the owner applies for classification under RCW 84.34.020  
23 (1), (2), or (3), then the classified or designated forest land shall  
24 not be considered removed from classification or designation for  
25 purposes of the compensating tax under RCW 84.33.120 or 84.33.140 until  
26 the application for current use classification under RCW 84.34.030 is  
27 denied or the property is removed from designation under RCW 84.34.108.  
28 Upon removal from designation under RCW 84.34.108, the amount of  
29 compensating tax due under this chapter shall be equal to:

30       (a) The difference, if any, between the amount of tax last levied  
31 on such land as forest land and an amount equal to the new assessed  
32 valuation of such land when removed from designation under RCW  
33 84.34.108 multiplied by the dollar rate of the last levy extended  
34 against such land, multiplied by

35       (b) A number equal to:

36       (i) The number of years the land was classified or designated under  
37 this chapter, if the total number of years the land was classified or

1 designated under this chapter and classified under chapter 84.34 RCW is  
2 less than ten; or

3 (ii) Ten minus the number of years the land was classified under  
4 chapter 84.34 RCW, if the total number of years the land was classified  
5 or designated under this chapter and classified under chapter 84.34 RCW  
6 is at least ten.

7 (2) Nothing in this section authorizes the continued classification  
8 or designation under this chapter or defers or reduces the compensating  
9 tax imposed upon forest land not transferred to classification under  
10 subsection (1) of this section which does not meet the necessary  
11 definitions of forest land under RCW 84.33.100. Nothing in this  
12 section affects the additional tax imposed under RCW 84.34.108.

13 (3) In a county with a population of more than one million  
14 inhabitants, no amount of compensating tax is due under this section if  
15 the removal from classification under RCW 84.34.108 results from a  
16 transfer of property described in RCW 84.34.108(~~(+5)~~) (6).

17 **Sec. 705.** RCW 84.34.080 and 1992 c 69 s 11 are each amended to  
18 read as follows:

19 When land which has been classified under this chapter as open  
20 space land, farm and agricultural land, or timber land is applied to  
21 some other use, except through compliance with RCW 84.34.070, or except  
22 as a result solely from any one of the conditions listed in RCW  
23 84.34.108(~~(+5)~~) (6), the owner shall within sixty days notify the  
24 county assessor of such change in use and additional real property tax  
25 shall be imposed upon such land in an amount equal to the sum of the  
26 following:

27 (1) The total amount of the additional tax and applicable interest  
28 due under RCW 84.34.108; plus

29 (2) A penalty amounting to twenty percent of the amount determined  
30 in subsection (1) of this section.

31 **Sec. 706.** RCW 84.34.108 and 1999 c 139 s 2 are each amended to  
32 read as follows:

33 (1) When land has once been classified under this chapter, a  
34 notation of such classification shall be made each year upon the  
35 assessment and tax rolls and such land shall be valued pursuant to RCW  
36 84.34.060 or 84.34.065 until removal of all or a portion of such  
37 classification by the assessor upon occurrence of any of the following:

1 (a) Receipt of notice from the owner to remove all or a portion of  
2 such classification;

3 (b) Sale or transfer to an ownership, except a transfer that  
4 resulted from a default in loan payments made to or secured by a  
5 governmental agency that intends to or is required by law or regulation  
6 to resell the property for the same use as before, making all or a  
7 portion of such land exempt from ad valorem taxation;

8 (c) Sale or transfer of all or a portion of such land to a new  
9 owner, unless the new owner has signed a notice of classification  
10 continuance, except transfer to an owner who is an heir or devisee of  
11 a deceased owner shall not, by itself, result in removal of  
12 classification. (~~The signed notice of continuance shall be attached~~  
13 ~~to the real estate excise tax affidavit provided for in RCW~~  
14 ~~82.45.150.~~) The notice of continuance shall be on a form prepared by  
15 the department of revenue. If the notice of continuance is not signed  
16 by the new owner and attached to the real estate excise tax affidavit,  
17 all additional taxes calculated pursuant to subsection ~~((+3+))~~ (4) of  
18 this section shall become due and payable by the seller or transferor  
19 at time of sale. The county auditor shall not accept an instrument of  
20 conveyance of classified land for filing or recording unless the new  
21 owner has signed the notice of continuance or the additional tax has  
22 been paid. The seller, transferor, or new owner may appeal the new  
23 assessed valuation calculated under subsection ~~((+3+))~~ (4) of this  
24 section to the county board of equalization. Jurisdiction is hereby  
25 conferred on the county board of equalization to hear these appeals;

26 (d) Determination by the assessor, after giving the owner written  
27 notice and an opportunity to be heard, that all or a portion of such  
28 land no longer meets the criteria for classification under this  
29 chapter. The criteria for classification pursuant to this chapter  
30 continue to apply after classification has been granted.

31 The granting authority, upon request of an assessor, shall provide  
32 reasonable assistance to the assessor in making a determination whether  
33 such land continues to meet the qualifications of RCW 84.34.020 (1) or  
34 (3). The assistance shall be provided within thirty days of receipt of  
35 the request.

36 (2) Land may not be removed from classification because of:

37 (a) The creation, sale, or transfer of forestry riparian easements  
38 under section 504 of this act; or

1        (b) The creation, sale, or transfer of a fee interest or a  
2 conservation easement for the riparian open space program under RCW  
3 76.09.040.

4        (3) Within thirty days after such removal of all or a portion of  
5 such land from current use classification, the assessor shall notify  
6 the owner in writing, setting forth the reasons for such removal. The  
7 seller, transferor, or owner may appeal such removal to the county  
8 board of equalization.

9        ~~((+3))~~ (4) Unless the removal is reversed on appeal, the assessor  
10 shall revalue the affected land with reference to full market value on  
11 the date of removal from classification. Both the assessed valuation  
12 before and after the removal of classification shall be listed and  
13 taxes shall be allocated according to that part of the year to which  
14 each assessed valuation applies. Except as provided in subsection  
15 ~~((+5))~~ (6) of this section, an additional tax, applicable interest,  
16 and penalty shall be imposed which shall be due and payable to the  
17 county treasurer thirty days after the owner is notified of the amount  
18 of the additional tax. As soon as possible, the assessor shall compute  
19 the amount of such an additional tax, applicable interest, and penalty  
20 and the treasurer shall mail notice to the owner of the amount thereof  
21 and the date on which payment is due. The amount of such additional  
22 tax, applicable interest, and penalty shall be determined as follows:

23        (a) The amount of additional tax shall be equal to the difference  
24 between the property tax paid as "open space land", "farm and  
25 agricultural land", or "timber land" and the amount of property tax  
26 otherwise due and payable for the seven years last past had the land  
27 not been so classified;

28        (b) The amount of applicable interest shall be equal to the  
29 interest upon the amounts of such additional tax paid at the same  
30 statutory rate charged on delinquent property taxes from the dates on  
31 which such additional tax could have been paid without penalty if the  
32 land had been assessed at a value without regard to this chapter;

33        (c) The amount of the penalty shall be as provided in RCW  
34 84.34.080. The penalty shall not be imposed if the removal satisfies  
35 the conditions of RCW 84.34.070.

36        ~~((+4))~~ (5) Additional tax, applicable interest, and penalty, shall  
37 become a lien on such land which shall attach at the time such land is  
38 removed from classification under this chapter and shall have priority  
39 to and shall be fully paid and satisfied before any recognizance,

1 mortgage, judgment, debt, obligation or responsibility to or with which  
2 such land may become charged or liable. Such lien may be foreclosed  
3 upon expiration of the same period after delinquency and in the same  
4 manner provided by law for foreclosure of liens for delinquent real  
5 property taxes as provided in RCW 84.64.050 now or as hereafter  
6 amended. Any additional tax unpaid on its due date shall thereupon  
7 become delinquent. From the date of delinquency until paid, interest  
8 shall be charged at the same rate applied by law to delinquent ad  
9 valorem property taxes.

10 ~~((+5+))~~ (6) The additional tax, applicable interest, and penalty  
11 specified in subsection ~~((+3+))~~ (4) of this section shall not be  
12 imposed if the removal of classification pursuant to subsection (1) of  
13 this section resulted solely from:

14 (a) Transfer to a government entity in exchange for other land  
15 located within the state of Washington;

16 (b)(i) A taking through the exercise of the power of eminent  
17 domain, or (ii) sale or transfer to an entity having the power of  
18 eminent domain in anticipation of the exercise of such power, said  
19 entity having manifested its intent in writing or by other official  
20 action;

21 (c) A natural disaster such as a flood, windstorm, earthquake, or  
22 other such calamity rather than by virtue of the act of the landowner  
23 changing the use of such property;

24 (d) Official action by an agency of the state of Washington or by  
25 the county or city within which the land is located which disallows the  
26 present use of such land;

27 (e) Transfer of land to a church when such land would qualify for  
28 exemption pursuant to RCW 84.36.020;

29 (f) Acquisition of property interests by state agencies or agencies  
30 or organizations qualified under RCW 84.34.210 and 64.04.130 for the  
31 purposes enumerated in those sections: PROVIDED, That at such time as  
32 these property interests are not used for the purposes enumerated in  
33 RCW 84.34.210 and 64.04.130 the additional tax specified in subsection  
34 ~~((+3+))~~ (4) of this section shall be imposed;

35 (g) Removal of land classified as farm and agricultural land under  
36 RCW 84.34.020(2)(d); ~~((+3+))~~

37 (h) Removal of land from classification after enactment of a  
38 statutory exemption that qualifies the land for exemption and receipt  
39 of notice from the owner to remove the land from classification;



1 RCW 76.09.170, for up to one year from the issuance of a notice of  
2 intent to disapprove notifications and applications under this section  
3 or until the violator pays all outstanding civil penalties and complies  
4 with all validly issued and outstanding notices to comply and stop work  
5 orders, whichever is longer. For purposes of chapter 482, Laws of  
6 1993, the terms "final order" and "final decision" shall mean the same  
7 as set forth in RCW 76.09.080, 76.09.090, and 76.09.110. The  
8 department shall provide written notice of its intent to disapprove an  
9 application or notification under this subsection. The department  
10 shall forward copies of its notice of intent to disapprove to any  
11 affected landowner. The disapproval period shall run from thirty days  
12 following the date of actual notice or when all administrative and  
13 judicial appellate processes, if any, have been exhausted. Any person  
14 provided the notice may seek review from the appeals board by filing a  
15 request for review within thirty days of the date of the notice of  
16 intent. While the notice of intent to disapprove is in effect, the  
17 violator may not serve as a person in charge of, be employed by,  
18 manage, or otherwise participate to any degree in forest practices.

19 (2) On request of the department, the attorney general may take  
20 action necessary to enforce this chapter, including, but not limited  
21 to((~~τ~~)): Seeking penalties, interest, costs, and attorneys' fees;  
22 enforcing final orders or decisions((~~τ~~)); and seeking civil  
23 injunctions, show cause orders, or contempt orders.

24 (3) A county may bring injunctive, declaratory, or other actions  
25 for enforcement for forest practice activities within its jurisdiction  
26 in the superior court as provided by law against the department, the  
27 forest landowner, timber owner or operator to enforce the forest  
28 practice ((~~regulations~~)) rules or any final order of the department, or  
29 the appeals board. No civil or criminal penalties shall be imposed for  
30 past actions or omissions if such actions or omissions were conducted  
31 pursuant to an approval or directive of the department. Injunctions,  
32 declaratory actions, or other actions for enforcement under this  
33 subsection may not be commenced unless the department fails to take  
34 appropriate action after ten days written notice to the department by  
35 the county of a violation of the forest practices rules or final orders  
36 of the department or the appeals board.

37 (4)(a) The department may require financial assurance prior to the  
38 conduct of any further forest practices from an operator or landowner  
39 who within the preceding three-year period has:



1 (i) Operated without an approved forest practices application,  
2 other than an unintentional operation in connection with an approved  
3 application outside the approved boundary of such an application;

4 (ii) Continued to operate in breach of, or failed to comply with,  
5 the terms of an effective stop work order or notice to comply; or

6 (iii) Failed to pay any civil or criminal penalty.

7 (b) The department may deny any application for failure to submit  
8 financial assurances as required.

9 **Sec. 802.** RCW 76.09.150 and 1974 ex.s. c 137 s 15 are each amended  
10 to read as follows:

11 (1) The department shall make inspections of forest lands, before,  
12 during and after the conducting of forest practices as necessary for  
13 the purpose of (~~insuring~~) ensuring compliance with this chapter and  
14 the forest practices (~~regulations~~) rules and to (~~insure~~) ensure  
15 that no material damage occurs to the natural resources of this state  
16 as a result of such practices.

17 (2) Any duly authorized representative of the department shall have  
18 the right to enter upon forest land at any reasonable time to enforce  
19 the provisions of this chapter and the forest practices (~~regulations~~)  
20 rules.

21 (3) The department or the department of ecology may apply for an  
22 administrative inspection warrant to either Thurston county superior  
23 court, or the superior court in the county in which the property is  
24 located. An administrative inspection warrant may be issued where:

25 (a) The department has attempted an inspection of forest lands  
26 under this chapter to ensure compliance with this chapter and the  
27 forest practice rules or to ensure that no potential or actual material  
28 damage occurs to the natural resources of this state, and access to all  
29 or part of the forest lands has been actually or constructively denied;  
30 or

31 (b) The department has reasonable cause to believe that a violation  
32 of this chapter or of rules adopted under this chapter is occurring or  
33 has occurred.

34 (4) In connection with any watershed analysis, any review of a  
35 pending application by an identification team appointed by the  
36 department, any compliance studies, any effectiveness monitoring, or  
37 other research that has been agreed to by a landowner, the department  
38 may invite representatives of other agencies, tribes, and interest

1 groups to accompany a department representative and, at the landowner's  
2 election, the landowner, on any such inspections. Reasonable efforts  
3 shall be made by the department to notify the landowner of the persons  
4 being invited onto the property and the purposes for which they are  
5 being invited.

6 **Sec. 803.** RCW 76.09.170 and 1993 c 482 s 2 are each amended to  
7 read as follows:

8 (1) Every person who violates any provision of RCW 76.09.010  
9 through 76.09.280 or of the forest practices rules, or who converts  
10 forest land to a use other than commercial timber operation within  
11 three years after completion of the forest practice without the consent  
12 of the county, city, or town, shall be subject to a penalty in an  
13 amount of not more than ten thousand dollars for every such violation.  
14 Each and every such violation shall be a separate and distinct offense.  
15 In case of a failure to comply with a stop work order, every day's  
16 continuance shall be a separate and distinct violation. Every person  
17 who through an act of commission or omission procures, aids or abets in  
18 the violation shall be considered to have violated the provisions of  
19 this section and shall be subject to the penalty in this section. No  
20 penalty shall be imposed under this section upon any governmental  
21 official, an employee of any governmental department, agency, or  
22 entity, or a member of any board or advisory committee created by this  
23 chapter for any act or omission in his or her duties in the  
24 administration of this chapter or of any rule adopted under this  
25 chapter.

26 (2) The department shall develop and recommend to the board a  
27 penalty schedule to determine the amount to be imposed under this  
28 section. The board shall adopt by rule, pursuant to chapter 34.05 RCW,  
29 such penalty schedule to be effective no later than January 1, 1994.  
30 The schedule shall be developed in consideration of the following:

- 31 (a) Previous violation history;
- 32 (b) Severity of the impact on public resources;
- 33 (c) Whether the violation of this chapter or its rules was  
34 intentional;
- 35 (d) Cooperation with the department;
- 36 (e) Repairability of the adverse effect from the violation; and
- 37 (f) The extent to which a penalty to be imposed on a forest  
38 landowner for a forest practice violation committed by another should

1 be reduced because the owner was unaware of the violation and has not  
2 received substantial economic benefits from the violation.

3 (3) The penalty in this section shall be imposed by a notice in  
4 writing, either by certified mail with return receipt requested or by  
5 personal service, to the person incurring the same from the department  
6 describing the violation with reasonable particularity. Within fifteen  
7 days after the notice is received, the person incurring the penalty may  
8 apply in writing to the department for the remission or mitigation of  
9 such penalty. Upon receipt of the application, that department may  
10 remit or mitigate the penalty upon whatever terms that department in  
11 its discretion deems proper, provided the department deems such  
12 remission or mitigation to be in the best interests of carrying out the  
13 purposes of this chapter. The department shall have authority to  
14 ascertain the facts regarding all such applications in such reasonable  
15 manner and under such rule as it may deem proper.

16 (4) Any person incurring a penalty under this section may appeal  
17 the penalty to the forest practices appeals board. Such appeals shall  
18 be filed within thirty days of receipt of notice imposing any penalty  
19 unless an application for remission or mitigation is made to the  
20 department. When such an application for remission or mitigation is  
21 made, such appeals shall be filed within thirty days of receipt of  
22 notice from the department setting forth the disposition of the  
23 application for remission or mitigation.

24 (5) The penalty imposed under this section shall become due and  
25 payable thirty days after receipt of a notice imposing the same unless  
26 application for remission or mitigation is made or an appeal is filed.  
27 When such an application for remission or mitigation is made, any  
28 penalty incurred under this section shall become due and payable thirty  
29 days after receipt of notice setting forth the disposition of such  
30 application unless an appeal is filed from such disposition. Whenever  
31 an appeal of the penalty incurred is filed, the penalty shall become  
32 due and payable only upon completion of all administrative and judicial  
33 review proceedings and the issuance of a final decision confirming the  
34 penalty in whole or in part.

35 (6) If the amount of any penalty is not paid to the department  
36 within thirty days after it becomes due and payable, the attorney  
37 general, upon the request of the department, shall bring an action in  
38 the name of the state of Washington in the superior court of Thurston  
39 county or of any county in which such violator may do business, to

1 recover such penalty, interest, costs, and attorneys' fees. In all  
2 such actions the procedure and rules of evidence shall be the same as  
3 an ordinary civil action except as otherwise in this chapter provided.  
4 In addition to or as an alternative to seeking enforcement of penalties  
5 in superior court, the department may bring an action in district court  
6 as provided in Title 3 RCW, to collect penalties, interest, costs, and  
7 attorneys' fees.

8 (7) Penalties imposed under this section for violations associated  
9 with a conversion to a use other than commercial timber operation shall  
10 be a lien upon the real property of the person assessed the penalty and  
11 the department may collect such amount in the same manner provided in  
12 chapter 60.04 RCW for mechanics' liens.

13 (8) Any person incurring a penalty imposed under this section is  
14 also responsible for the payment of all costs and attorneys' fees  
15 incurred in connection with the penalty and interest accruing on the  
16 unpaid penalty amount.

17 **PART IX**  
18 **WATERSHED ANALYSIS**

19 **Sec. 901.** RCW 76.09.010 and 1993 c 443 s 1 are each amended to  
20 read as follows:

21 (1) The legislature hereby finds and declares that the forest land  
22 resources are among the most valuable of all resources in the state;  
23 that a viable forest products industry is of prime importance to the  
24 state's economy; that it is in the public interest for public and  
25 private commercial forest lands to be managed consistent with sound  
26 policies of natural resource protection; that coincident with  
27 maintenance of a viable forest products industry, it is important to  
28 afford protection to forest soils, fisheries, wildlife, water quantity  
29 and quality, air quality, recreation, and scenic beauty.

30 (2) The legislature further finds and declares it to be in the  
31 public interest of this state to create and maintain through the  
32 adoption of this chapter a comprehensive state-wide system of laws and  
33 forest practices (~~regulations~~) rules which will achieve the following  
34 purposes and policies:

35 (a) Afford protection to, promote, foster and encourage timber  
36 growth, and require such minimum reforestation of commercial tree

1 species on forest lands as will reasonably utilize the timber growing  
2 capacity of the soil following current timber harvest;

3 (b) Afford protection to forest soils and public resources by  
4 utilizing all reasonable methods of technology in conducting forest  
5 practices;

6 (c) Recognize both the public and private interest in the  
7 profitable growing and harvesting of timber;

8 (d) Promote efficiency by permitting maximum operating freedom  
9 consistent with the other purposes and policies stated herein;

10 (e) Provide for regulation of forest practices so as to avoid  
11 unnecessary duplication in such (~~(regulation)~~) rules;

12 (f) Provide for interagency input and intergovernmental and tribal  
13 coordination and cooperation;

14 (g) Achieve compliance with all applicable requirements of federal  
15 and state law with respect to nonpoint sources of water pollution from  
16 forest practices;

17 (h) To consider reasonable land use planning goals and concepts  
18 contained in local comprehensive plans and zoning regulations; (~~(and)~~)

19 (i) Foster cooperation among managers of public resources, forest  
20 landowners, Indian tribes and the citizens of the state; and

21 (j) Develop a watershed analysis system that addresses the  
22 cumulative effect of forest practices on, at a minimum, the public  
23 resources of fish, water, and public capital improvements of the state  
24 and its political subdivisions.

25 (3) The legislature further finds and declares that it is also in  
26 the public interest of the state to encourage forest landowners to  
27 undertake corrective and remedial action to reduce the impact of mass  
28 earth movements and fluvial processes.

29 (4) The legislature further finds and declares that it is in the  
30 public interest that the applicants for state forest practices permits  
31 should assist in paying for the cost of review and permitting necessary  
32 for the environmental protection of these resources.

33 **Sec. 902.** RCW 76.09.220 and 1999 c 90 s 1 are each amended to read  
34 as follows:

35 (1) The appeals board shall operate on either a part-time or a  
36 full-time basis, as determined by the governor. If it is determined  
37 that the appeals board shall operate on a full-time basis, each member  
38 shall receive an annual salary to be determined by the governor. If it

1 is determined that the appeals board shall operate on a part-time  
2 basis, each member shall be compensated in accordance with RCW  
3 43.03.250. The director of the environmental hearings office shall  
4 make the determination, required under RCW 43.03.250, as to what  
5 statutorily prescribed duties, in addition to attendance at a hearing  
6 or meeting of the board, shall merit compensation. This compensation  
7 shall not exceed ten thousand dollars in a fiscal year. Each member  
8 shall receive reimbursement for travel expenses incurred in the  
9 discharge of his or her duties in accordance with the provisions of RCW  
10 43.03.050 and 43.03.060.

11 (2) The appeals board shall as soon as practicable after the  
12 initial appointment of the members thereof, meet and elect from among  
13 its members a chair, and shall at least biennially thereafter meet and  
14 elect or reelect a chair.

15 (3) The principal office of the appeals board shall be at the state  
16 capital, but it may sit or hold hearings at any other place in the  
17 state. A majority of the appeals board shall constitute a quorum for  
18 making orders or decisions, (~~promulgating~~) adopting rules (~~and~~  
19 ~~regulations~~) necessary for the conduct of its powers and duties, or  
20 transacting other official business, and may act though one position on  
21 the board be vacant. One or more members may hold hearings and take  
22 testimony to be reported for action by the board when authorized by  
23 rule or order of the board. The appeals board shall perform all the  
24 powers and duties granted to it in this chapter or as otherwise  
25 provided by law.

26 (4) The appeals board shall make findings of fact and prepare a  
27 written decision in each case decided by it, and such findings and  
28 decision shall be effective upon being signed by two or more members  
29 and upon being filed at the appeals board's principal office, and shall  
30 be open to public inspection at all reasonable times.

31 (5) The appeals board shall either publish at its expense or make  
32 arrangements with a publishing firm for the publication of those of its  
33 findings and decisions which are of general public interest, in such  
34 form as to assure reasonable distribution thereof.

35 (6) The appeals board shall maintain at its principal office a  
36 journal which shall contain all official actions of the appeals board,  
37 with the exception of findings and decisions, together with the vote of  
38 each member on such actions. The journal shall be available for public

1 inspection at the principal office of the appeals board at all  
2 reasonable times.

3 (7) The forest practices appeals board shall have exclusive  
4 jurisdiction to hear appeals arising from an action or determination by  
5 the department, and the department of fish and wildlife, and the  
6 department of ecology with respect to management plans provided for  
7 under RCW 76.09.350.

8 (8)(a) Any person aggrieved by the approval or disapproval of an  
9 application to conduct a forest practice or the approval or disapproval  
10 of any landscape plan or permit or watershed analysis may seek review  
11 from the appeals board by filing a request for the same within thirty  
12 days of the approval or disapproval. Concurrently with the filing of  
13 any request for review with the board as provided in this section, the  
14 requestor shall file a copy of his or her request with the department  
15 and the attorney general. The attorney general may intervene to  
16 protect the public interest and ensure that the provisions of this  
17 chapter are complied with.

18 (b) The review proceedings authorized in (a) of this subsection are  
19 subject to the provisions of chapter 34.05 RCW pertaining to procedures  
20 in adjudicative proceedings.

21 **PART X**

22 **FOREST PRACTICES BOARD COMPOSITION**

23 **Sec. 1001.** RCW 76.09.030 and 1995 c 399 s 207 are each amended to  
24 read as follows:

25 (1) There is hereby created the forest practices board of the state  
26 of Washington as an agency of state government consisting of members as  
27 follows:

28 (a) The commissioner of public lands or the commissioner's  
29 designee;

30 (b) The director of the department of community, trade, and  
31 economic development or the director's designee;

32 (c) The director of the department of agriculture or the director's  
33 designee;

34 (d) The director of the department of ecology or the director's  
35 designee;

36 (e) The director of the department of fish and wildlife or the  
37 director's designee;

1       (f) An elected member of a county legislative authority appointed  
2 by the governor: PROVIDED, That such member's service on the board  
3 shall be conditioned on the member's continued service as an elected  
4 county official; and

5       (~~(f)~~) (g) Six members of the general public appointed by the  
6 governor, one of whom shall be an owner of not more than five hundred  
7 acres of forest land, and one of whom shall be an independent logging  
8 contractor.

9       (2) The director of the department of fish and wildlife's service  
10 on the board may be terminated two years after the effective date of  
11 this section if the legislature finds that after two years the  
12 department has not made substantial progress toward integrating the  
13 laws, rules, and programs governing forest practices, chapter 76.09  
14 RCW, and the laws, rules, and programs governing hydraulic projects,  
15 chapter 75.20 RCW. Such a finding shall be based solely on whether the  
16 department of fish and wildlife makes substantial progress as defined  
17 in this subsection, and will not be based on other actions taken as a  
18 member of the board. Substantial progress shall include  
19 recommendations to the legislature for closer integration of the  
20 existing rule-making authorities of the board and the department of  
21 fish and wildlife, and closer integration of the forest practices and  
22 hydraulics permitting processes, including exploring the potential for  
23 a consolidated permitting process. These recommendations shall be  
24 designed to resolve problems currently associated with the existing  
25 dual regulatory and permitting processes.

26       (3) The members of the initial board appointed by the governor  
27 shall be appointed so that the term of one member shall expire December  
28 31, 1975, the term of one member shall expire December 31, 1976, the  
29 term of one member shall expire December 31, 1977, the terms of two  
30 members shall expire December 31, 1978, and the terms of two members  
31 shall expire December 31, 1979. Thereafter, each member shall be  
32 appointed for a term of four years. Vacancies on the board shall be  
33 filled in the same manner as the original appointments. Each member of  
34 the board shall continue in office until his or her successor is  
35 appointed and qualified. The commissioner of public lands or the  
36 commissioner's designee shall be the chairman of the board.

37       (~~(3)~~) (4) The board shall meet at such times and places as shall  
38 be designated by the chairman or upon the written request of the



1 majority of the board. The principal office of the board shall be at  
2 the state capital.

3 ~~((4))~~ (5) Members of the board, except public employees and  
4 elected officials, shall be compensated in accordance with RCW  
5 43.03.250. Each member shall be entitled to reimbursement for travel  
6 expenses incurred in the performance of their duties as provided in RCW  
7 43.03.050 and 43.03.060.

8 ~~((5))~~ (6) The board may employ such clerical help and staff  
9 pursuant to chapter 41.06 RCW as is necessary to carry out its duties.

## 10 PART XI

### 11 WATER QUALITY COORDINATION

12 **Sec. 1101.** RCW 90.48.420 and 1975 1st ex.s. c 200 s 13 are each  
13 amended to read as follows:

14 (1) The department of ecology, pursuant to powers vested in it  
15 previously by chapter 90.48 RCW and consistent with the policies of  
16 said chapter and RCW 90.54.020(3), shall be solely responsible for  
17 establishing water quality standards for waters of the state. On or  
18 before January 1, 1975, the department of ecology shall examine  
19 existing ~~((regulations))~~ rules containing water quality standards and  
20 other applicable rules ~~((and—regulations))~~ of said department  
21 pertaining to waters of the state affected by nonpoint sources of  
22 pollution arising from forest practices and, when it appears  
23 appropriate to the department of ecology, modify said ~~((regulations))~~  
24 rules. In any such examination or modification the department of  
25 ecology shall consider such factors, among others, as uses of the  
26 receiving waters, diffusion, down-stream cooling, and reasonable  
27 transient and short-term effects resulting from forest practices.

28 ~~((Promulgation))~~ Adoption of forest practices ~~((regulations))~~ rules  
29 pertaining to water quality by ~~((the department of ecology and))~~ the  
30 forest practices board~~((7))~~ shall be accomplished after reaching  
31 agreement with the director of the department or the director's  
32 designee on the board. Adoption shall be accomplished so that  
33 compliance with such forest practice ~~((regulations))~~ rules will achieve  
34 compliance with water pollution control laws.

35 (2) The department of ecology shall monitor water quality to  
36 determine whether revisions in such water quality standards or  
37 revisions in such forest practices ~~((regulations))~~ rules are necessary

1 to accomplish the foregoing result, and either (~~promulgate~~) adopt  
2 appropriate revisions to such water quality standards or propose  
3 appropriate revisions to such forest practices (~~regulations~~) rules or  
4 both.

5 (3) Notwithstanding any other provisions of chapter 90.48 RCW or of  
6 the rules (~~and regulations promulgated~~) adopted thereunder, no permit  
7 system pertaining to nonpoint sources of pollution arising from forest  
8 practices shall be authorized, and no civil or criminal penalties shall  
9 be imposed with respect to any forest practices conducted in full  
10 compliance with the applicable provisions of RCW 76.09.010 through  
11 76.09.280, forest practices (~~regulations~~) rules, and any approvals or  
12 directives of the department of natural resources thereunder.

13 (4) Prior to the department of ecology taking action under statutes  
14 or (~~regulations~~) rules relating to water quality, regarding  
15 violations of water quality standards arising from forest practices,  
16 the department of ecology shall notify the department of natural  
17 resources.

## 18 PART XII

### 19 STATE ENVIRONMENTAL POLICY ACT

20 NEW SECTION. **Sec. 1201.** A new section is added to chapter 43.21C  
21 RCW to read as follows:

22 (1) Decisions pertaining to the following kinds of actions under  
23 chapter . . . , Laws of 1999 (this act) are not subject to any  
24 procedural requirements implementing RCW 43.21C.030(2)(c): (a)  
25 Approval of forest road maintenance and abandonment plans under chapter  
26 76.09 RCW and RCW 75.20.100; (b) approval by the department of natural  
27 resources of future timber harvest schedules involving east-side clear  
28 cuts under rules implementing chapter 76.09 RCW; (c) acquisitions of  
29 forest lands in stream channel migration zones under RCW 76.09.040; and  
30 (d) acquisitions of conservation easements pertaining to forest lands  
31 in riparian zones under section 504 of this act.

32 (2) For purposes of the department's threshold determination on a  
33 watershed analysis, the department shall not make a determination of  
34 significance unless the prescriptions themselves, compared to rules or  
35 prescriptions in place prior to the analysis, will cause probable  
36 significant adverse impact on elements of the environment other than  
37 those addressed in the watershed analysis process.

PART XIII  
FEDERAL ASSURANCES

NEW SECTION. **Sec. 1301.** A new section is added to chapter 75.46 RCW under the subchapter heading "federal assurances related to forest practices conducted under the state salmon recovery strategy" to read as follows:

(1) Chapter . . ., Laws of 1999 (this act) has been enacted on the assumption that the federal assurances described in the forests and fish report as defined in RCW 76.09.020 will be obtained and that forest practices conducted in accordance with chapter . . ., Laws of 1999 (this act) and the rules adopted under chapter . . ., Laws of 1999 (this act) will not be subject to additional regulations or restrictions for aquatic resources except as provided in the forests and fish report.

(2) The occurrence of any of the following events shall constitute a failure of assurances:

(a) Either (i) the national marine fisheries service or the United States fish and wildlife service fails to promulgate an effective rule under 16 U.S.C. Sec. 1533(d) covering each aquatic resource that is listed as threatened under the endangered species act within two years after the date on which the aquatic resource is so listed or, in the case of bull trout, within two years after the effective date of this section; or (ii) any such rule fails to permit any incidental take that would occur from the conduct of forest practices in compliance with the rules adopted under chapter . . ., Laws of 1999 (this act) or fails to confirm that such forest practices would not otherwise be in violation of the endangered species act and the regulations promulgated under that act. However, this subsection (2)(a) is not applicable to any aquatic resource covered by an incidental take permit described in (c) of this subsection;

(b) Either the national marine fisheries service or the United States fish and wildlife service shall promulgate an effective rule under 16 U.S.C. Sec. 1533(d) covering any aquatic resource that would preclude the conduct of forest practices consistent with the prescriptions outlined in the forests and fish report. However, this subsection (2)(b) is not applicable to any aquatic resource covered by an incidental take permit described in (c) of this subsection;

1 (c) Either the secretary of the interior or the secretary of  
2 commerce fails to issue an acceptable incidental take permit under 16  
3 U.S.C. Sec. 1539(a) covering all fish and wildlife species included  
4 within aquatic resources on or before June 30, 2003. An acceptable  
5 incidental take permit will (i) permit the incidental take, if any, of  
6 all fish and wildlife species included within aquatic resources  
7 resulting from the conduct of forest practices in compliance with the  
8 prescriptions outlined in the forests and fish report; (ii) provide  
9 protection to the state of Washington and its subdivisions and to  
10 landowners and operators; (iii) not require the commitment of  
11 additional resources beyond those required to be committed under the  
12 forests and fish report; and (iv) provide "no-surprises" protection as  
13 described in 50 C.F.R. Parts 17 and 222 (1998);

14 (d) The environmental protection agency or department of ecology  
15 fails to provide the clean water act assurances described in appendix  
16 M to the forests and fish report; or

17 (e) The assurances described in (a) through (d) of this subsection  
18 are reversed or otherwise rendered ineffective by subsequent federal  
19 legislation or rulemaking or by final decision of any court of  
20 competent jurisdiction.

21 Upon the occurrence of a failure of assurances, any agency, tribe,  
22 or other interested person including, without limitation, any forest  
23 landowner, may provide written notice of the occurrence of such failure  
24 of assurances to the legislature and to the office of the governor.  
25 Promptly upon receipt of such a notice, the governor shall review  
26 relevant information and if he or she determines that a failure of  
27 assurances has occurred, the governor shall make such a finding in a  
28 written report with recommendations and deliver such report to the  
29 legislature. Upon notice of the occurrence of a failure of assurances,  
30 the legislature shall review chapter . . . , Laws of 1999 (this act),  
31 all rules adopted by the forest practices board, the department of  
32 ecology, or the department of fish and wildlife at any time after  
33 January 1, 1999, that were adopted primarily for the protection of one  
34 or more aquatic resources and affect forest practices and the terms of  
35 the forests and fish report, and shall take such action, including the  
36 termination of funding or the modification of other statutes, as it  
37 deems appropriate.

38 (3) The governor may negotiate with federal officials, directly or  
39 through designated representatives, on behalf of the state and its

1 agencies and subdivisions, to obtain assurances from federal agencies  
2 to the effect that compliance with the forest practices rules as  
3 amended under chapter . . . , Laws of 1999 (this act) and implementation  
4 of the recommendations in the forests and fish report will satisfy  
5 federal requirements under the endangered species act and the clean  
6 water act and related regulations, including the negotiation of a rule  
7 adopted under section 4(d) of the endangered species act, entering into  
8 implementation agreements and receiving incidental take permits under  
9 section 10 of the endangered species act or entering into other  
10 intergovernmental agreements.

11 **PART XIV**  
12 **MISCELLANEOUS**

13 NEW SECTION. **Sec. 1401.** RCW 90.28.150 (Improving streams for  
14 logging) and 1891 c 120 s 1 are each repealed.

15 NEW SECTION. **Sec. 1402.** A new section is added to chapter 76.09  
16 RCW to read as follows:

17 The forests and fish account is created in the state treasury.  
18 Receipts from appropriations, federal grants, and gifts from private  
19 organizations and individuals or other sources may be deposited into  
20 the account. Moneys in the account may be spent only after  
21 appropriation. Expenditures from the account may only be used for the  
22 establishment and operation of the small forest landowner office under  
23 section 503 of this act, the purchase of easements under section 504 of  
24 this act, the purchase of lands under RCW 76.09.040, or other  
25 activities necessary to implement chapter . . . , Laws of 1999 (this  
26 act).

27 NEW SECTION. **Sec. 1403.** Part headings used in this act are not  
28 any part of the law.

29 NEW SECTION. **Sec. 1404.** Sections 201, 202, and 203 of this act  
30 are necessary for the immediate preservation of the public peace,  
31 health, or safety, or support of the state government and its existing  
32 public institutions, and take effect immediately."

1 **SHB 2091** - H AMD  
2 By Representative

3

4 On page 1, line 2 of the title, after "resources;" strike the  
5 remainder of the title and insert "amending RCW 76.09.020, 76.13.010,  
6 76.42.060, 76.09.330, 76.09.040, 84.33.120, 84.33.140, 84.33.145,  
7 84.34.080, 84.34.108, 76.09.140, 76.09.150, 76.09.170, 76.09.010,  
8 76.09.220, 76.09.030, and 90.48.420; adding new sections to chapter  
9 75.46 RCW; adding new sections to chapter 76.09 RCW; adding a new  
10 section to chapter 34.05 RCW; adding new sections to chapter 43.21C  
11 RCW; adding a new section to chapter 84.33 RCW; adding new sections to  
12 chapter 76.13 RCW; creating new sections; repealing RCW 90.28.150; and  
13 declaring an emergency."

--- END ---