
SENATE BILL 5008

State of Washington

56th Legislature

1999 Regular Session

By Senators Morton, Deccio, Honeyford and Hochstatter

Read first time 01/11/1999. Referred to Committee on Natural Resources, Parks & Recreation.

1 AN ACT Relating to forest practices; and reenacting and amending
2 RCW 76.09.060.

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

4 **Sec. 1.** RCW 76.09.060 and 1997 c 290 s 3 and 1997 c 173 s 3 are
5 each reenacted and amended to read as follows:

6 The following shall apply to those forest practices administered
7 and enforced by the department and for which the board shall promulgate
8 regulations as provided in this chapter:

9 (1) The department shall prescribe the form and contents of the
10 notification and application. The forest practices rules shall specify
11 by whom and under what conditions the notification and application
12 shall be signed or otherwise certified as acceptable. The application
13 or notification shall be delivered in person to the department, sent by
14 first class mail to the department or electronically filed in a form
15 defined by the department. The form for electronic filing shall be
16 readily convertible to a paper copy, which shall be available to the
17 public pursuant to chapter 42.17 RCW. The information required may
18 include, but is not limited to:

1 (a) Name and address of the forest landowner, timber owner, and
2 operator;

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

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

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

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

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

17 (g) Soil, geological, and hydrological data with respect to forest
18 practices;

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

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

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

26 (k) All necessary application or notification fees.

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

29 (3) The application for a forest practice or the notification of a
30 Class II forest practice is subject to the three-year reforestation
31 requirement.

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

34 (i) The reforestation requirements of this chapter and of the
35 forest practices rules shall not apply if the land is in fact so
36 converted unless applicable alternatives or limitations are provided in
37 forest practices rules issued under RCW 76.09.070 as now or hereafter
38 amended;

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

5 (iii) The forest practices described in the application are subject
6 to applicable county, city, town, and regional governmental authority
7 permitted under RCW 76.09.240 as now or hereafter amended as well as
8 the forest practices rules.

9 (b) Except as provided elsewhere in this section, if the
10 application or notification does not state that any land covered by the
11 application or notification will be or is intended to be so converted:

12 (i) For six years after the date of the application the county,
13 city, town, and regional governmental entities shall deny any or all
14 applications for permits or approvals, including building permits and
15 subdivision approvals, relating to nonforestry uses of land subject to
16 the application;

17 (A) The department shall submit to the local governmental entity a
18 copy of the statement of a forest landowner's intention not to convert
19 which shall represent a recognition by the landowner that the six-year
20 moratorium shall be imposed and shall preclude the landowner's ability
21 to obtain development permits while the moratorium is in place. This
22 statement shall be filed by the local governmental entity with the
23 county recording officer, who shall record the documents as provided in
24 chapter 65.04 RCW, except that lands designated as forest lands of
25 long-term commercial significance under chapter 36.70A RCW shall not be
26 recorded due to the low likelihood of conversion. Not recording the
27 statement of a forest landowner's conversion intention shall not be
28 construed to mean the moratorium is not in effect.

29 (B) The department shall collect the recording fee and reimburse
30 the local governmental entity for the cost of recording the
31 application.

32 (C) When harvesting takes place without an application, the local
33 governmental entity shall impose the six-year moratorium provided in
34 (b)(i) of this subsection from the date the unpermitted harvesting was
35 discovered by the department or the local governmental entity.

36 (D) The local governmental entity shall develop a process for
37 lifting the six-year moratorium, which shall include public
38 notification, and procedures for appeals and public hearings.

1 (E) The local governmental entity may develop an administrative
2 process for lifting or waiving the six-year moratorium for the purposes
3 of constructing a single-family residence or outbuildings, or both, on
4 a legal lot and building site. Lifting or waiving of the six-year
5 moratorium is subject to compliance with all local ordinances.

6 (F) The six-year moratorium shall not be imposed on a forest
7 practices application that contains a conversion option harvest plan
8 approved by the local governmental entity unless the forest practice
9 was not in compliance with the approved forest practice permit. Where
10 not in compliance with the conversion option harvest plan, the six-year
11 moratorium shall be imposed from the date the application was approved
12 by the department or the local governmental entity;

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

19 (iii) Conversion to a use other than commercial forest product
20 operations within six years after approval of the forest practices
21 without the consent of the county, city, or town shall constitute a
22 violation of each of the county, municipal city, town, and regional
23 authorities to which the forest practice operations would have been
24 subject if the application had so stated.

25 (c) The application or notification shall be signed by the forest
26 landowner and accompanied by a statement signed by the forest landowner
27 indicating his or her intent with respect to conversion and
28 acknowledging that he or she is familiar with the effects of this
29 subsection.

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

36 (5) Before the operator commences any forest practice in a manner
37 or to an extent significantly different from that described in a
38 previously approved application or notification, there shall be

1 submitted to the department a new application or notification form in
2 the manner set forth in this section.

3 (6) Except as provided in RCW 76.09.350(4), the notification to or
4 the approval given by the department to an application to conduct a
5 forest practice shall be effective for a term of two years from the
6 date of approval or notification and shall not be renewed unless a new
7 application is filed and approved or a new notification has been filed.
8 At the option of the applicant, an application or notification may be
9 submitted to cover a single forest practice or a number of forest
10 practices within reasonable geographic or political boundaries as
11 specified by the department. An application or notification that
12 covers more than one forest practice may have an effective term of more
13 than two years. The board shall adopt rules that establish standards
14 and procedures for approving an application or notification that has an
15 effective term of more than two years. Such rules shall include
16 extended time periods for application or notification approval or
17 disapproval. On an approved application with a term of more than two
18 years, the applicant shall inform the department before commencing
19 operations.

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

27 (8) The legislative authority of any county that is located east of
28 the crest of the Cascade mountains may, after a public hearing, exempt
29 that county from the six-year moratorium provided in subsection
30 (3)(b)(i) of this section.

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