

2SHB 1095 - S COMM AMD 319
By Senator Morton

ADOPTED 04/09/2003

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that chapter 4,
4 Laws of 1999 sp. sess. strongly encouraged the forest practices board
5 to adopt administrative rules that were substantially similar to the
6 recommendations presented to the legislature in the form of the forests
7 and fish report. The rules adopted pursuant to the 1999 legislation
8 require all forest landowners to complete a road maintenance and
9 abandonment plan, and those rules cannot be changed by the forest
10 practices board without either a final order from a court, direct
11 instructions from the legislature, or a recommendation from the
12 adaptive management process. In the time since the enactment of
13 chapter 4, Laws of 1999 sp. sess., it has become clear that both the
14 planning aspect and the implementation aspect of the road maintenance
15 and abandonment plan requirement may cause an unforeseen and unintended
16 disproportionate financial hardship on small forest landowners.

17 (2) The legislature further finds that the commissioner of public
18 lands and the governor have explored solutions that minimize the
19 hardship caused to small forest landowners by the forest road
20 maintenance and abandonment requirements of the forests and fish law,
21 while maintaining protection for public resources. This act represents
22 recommendations stemming from that process.

23 (3) The legislature further finds that it is in the state's
24 interest to help small forest landowners comply with the requirements
25 of the forest practices rules in a way that does not require the
26 landowner to spend unreasonably high and unpredictable amounts of money
27 to complete road maintenance and abandonment plan preparation and
28 implementation. Small forest landowners provide significant wildlife
29 habitat and serve as important buffers between urban development and
30 Washington's public forest land holdings.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 76.09 RCW
2 to read as follows:

3 (1) The state may not require a small forest landowner to invest in
4 upgrades, replacements, or other engineering of a forest road, and any
5 fish passage barriers that are a part of the road, that do not threaten
6 public resources or create a barrier to the passage of fish.

7 (2) Participation in the forests and fish agreement provides a
8 benefit to both the landowner in terms of federal assurances, and the
9 public in terms of aquatic habitat preservation and water quality
10 enhancement; therefore, if conditions do threaten public resources or
11 create a fish passage barrier, the road maintenance and abandonment
12 planning process may not require a small forest landowner to take a
13 positive action that will result in high cost without a significant
14 portion of that cost being shared by the public.

15 (3) Some fish passage barriers are more of a threat to public
16 resources than others; therefore, no small forest landowner should be
17 required to repair a fish passage barrier until higher priority fish
18 passage barriers on other lands in the watershed have been repaired.

19 (4) If an existing fish passage barrier on land owned by a small
20 forest landowner was installed under an approved forest practices
21 application or notification, and hydraulics approval, and that fish
22 passage barrier becomes a high priority for fish passage based on the
23 watershed ranking in section 7 of this act, one hundred percent public
24 funding shall be provided.

25 (5) The preparation of a road maintenance and abandonment plan can
26 require technical expertise that may require large expenditures before
27 the time that the landowner plans to conduct any revenue-generating
28 operations on his or her land; therefore, small forest landowners
29 should be allowed to complete a simplified road maintenance and
30 abandonment plan checklist, that does not require professional
31 engineering or forestry expertise to complete, and that does not need
32 to be submitted until the time that the landowner submits a forest
33 practices application or notification for final or intermediate
34 harvesting, or for salvage of trees. This act is intended to provide
35 an alternate way for small forest landowners to comply with the road
36 maintenance and abandonment plan goals identified in the forest
37 practices rules.

1 **Sec. 3.** RCW 76.09.020 and 2002 c 17 s 1 are each amended to read
2 as follows:

3 (~~For purposes of this chapter:~~) The definitions in this section
4 apply throughout this chapter unless the context clearly requires
5 otherwise.

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

9 (2) "Appeals board" means the forest practices appeals board
10 created by RCW 76.09.210.

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

19 (4) "Commissioner" means the commissioner of public lands.

20 (5) "Contiguous" means land adjoining or touching by common corner
21 or otherwise. Land having common ownership divided by a road or other
22 right of way shall be considered contiguous.

23 (6) "Conversion to a use other than commercial timber operation"
24 means a bona fide conversion to an active use which is incompatible
25 with timber growing and as may be defined by forest practices rules.

26 (7) "Department" means the department of natural resources.

27 (8) "Fish passage barrier" means any artificial instream structure
28 that impedes the free passage of fish.

29 (9) "Forest land" means all land which is capable of supporting a
30 merchantable stand of timber and is not being actively used for a use
31 which is incompatible with timber growing. Forest land does not
32 include agricultural land that is or was enrolled in the conservation
33 reserve enhancement program by contract if such agricultural land was
34 historically used for agricultural purposes and the landowner intends
35 to continue to use the land for agricultural purposes in the future.
36 As it applies to the operation of the road maintenance and abandonment

1 plan element of the forest practices rules on small forest landowners,
2 the term "forest land" excludes:

- 3 (a) Residential home sites, which may include up to five acres; and
- 4 (b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens,
- 5 and the land on which appurtenances necessary to the production,
- 6 preparation, or sale of crops, fruit, dairy products, fish, and
- 7 livestock exist.

8 ~~((+9))~~ (10) "Forest landowner" means any person in actual control
9 of forest land, whether such control is based either on legal or
10 equitable title, or on any other interest entitling the holder to sell
11 or otherwise dispose of any or all of the timber on such land in any
12 manner(~~(+—PROVIDED, That)~~). However, any lessee or other person in
13 possession of forest land without legal or equitable title to such land
14 shall be excluded from the definition of "forest landowner" unless such
15 lessee or other person has the right to sell or otherwise dispose of
16 any or all of the timber located on such forest land.

17 ~~((+10))~~ (11) "Forest practice" means any activity conducted on or
18 directly pertaining to forest land and relating to growing, harvesting,
19 or processing timber, including but not limited to:

- 20 (a) Road and trail construction;
- 21 (b) Harvesting, final and intermediate;
- 22 (c) Precommercial thinning;
- 23 (d) Reforestation;
- 24 (e) Fertilization;
- 25 (f) Prevention and suppression of diseases and insects;
- 26 (g) Salvage of trees; and
- 27 (h) Brush control.

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

34 ~~((+11))~~ (12) "Forest practices rules" means any rules adopted
35 pursuant to RCW 76.09.040.

36 ~~((+12))~~ (13) "Forest road," as it applies to the operation of the
37 road maintenance and abandonment plan element of the forest practices

1 rules on small forest landowners, means a road or road segment that
2 crosses land that meets the definition of forest land, but excludes
3 residential access roads.

4 (14) "Forest trees" does not include hardwood trees cultivated by
5 agricultural methods in growing cycles shorter than fifteen years if
6 the trees were planted on land that was not in forest use immediately
7 before the trees were planted and before the land was prepared for
8 planting the trees. "Forest trees" includes Christmas trees, but does
9 not include Christmas trees that are cultivated by agricultural
10 methods, as that term is defined in RCW 84.33.035.

11 ~~((13))~~ (15) "Forests and fish report" means the forests and fish
12 report to the board dated April 29, 1999.

13 ~~((14))~~ (16) "Application" means the application required pursuant
14 to RCW 76.09.050.

15 ~~((15))~~ (17) "Operator" means any person engaging in forest
16 practices except an employee with wages as his or her sole
17 compensation.

18 ~~((16))~~ (18) "Person" means any individual, partnership, private,
19 public, or municipal corporation, county, the department or other state
20 or local governmental entity, or association of individuals of whatever
21 nature.

22 ~~((17))~~ (19) "Public resources" means water, fish and wildlife,
23 and in addition shall mean capital improvements of the state or its
24 political subdivisions.

25 ~~((18))~~ (20) "Small forest landowner" has the same meaning as
26 defined in section 11 of this act.

27 (21) "Timber" means forest trees, standing or down, of a commercial
28 species, including Christmas trees. However, "timber" does not include
29 Christmas trees that are cultivated by agricultural methods, as that
30 term is defined in RCW 84.33.035.

31 ~~((19))~~ (22) "Timber owner" means any person having all or any
32 part of the legal interest in timber. Where such timber is subject to
33 a contract of sale, "timber owner" shall mean the contract purchaser.

34 ~~((20))~~ (23) "Board" means the forest practices board created in
35 RCW 76.09.030.

36 ~~((21))~~ (24) "Unconfined avulsing channel migration zone" means
37 the area within which the active channel of an unconfined avulsing

1 stream is prone to move and where the movement would result in a
2 potential near-term loss of riparian forest adjacent to the stream.
3 Sizeable islands with productive timber may exist within the zone.

4 ~~((+22+))~~ (25) "Unconfined avulsing stream" means generally fifth
5 order or larger waters that experience abrupt shifts in channel
6 location, creating a complex flood plain characterized by extensive
7 gravel bars, disturbance species of vegetation of variable age,
8 numerous side channels, wall-based channels, oxbow lakes, and wetland
9 complexes. Many of these streams have dikes and levees that may
10 temporarily or permanently restrict channel movement.

11 NEW SECTION. **Sec. 4.** A new section is added to chapter 76.09 RCW
12 to read as follows:

13 (1) The board must amend the forest practices rules relating to
14 road maintenance and abandonment plans that exist on the effective date
15 of this section to reflect the following:

16 (a) A forest landowner who owns a total of eighty acres or less of
17 forest land in Washington is not required to submit a road maintenance
18 and abandonment plan for any block of forest land that is twenty
19 contiguous acres or less in area;

20 (b) A landowner who satisfies the definition of a small forest
21 landowner, but who does not qualify under (a) of this subsection, is
22 only required to submit a checklist road maintenance and abandonment
23 plan with the abbreviated content requirements provided for in
24 subsection (3) of this section, and is not required to comply with
25 annual reporting and review requirements; and

26 (c) Existing forest roads must be maintained only to the extent
27 necessary to prevent damage to public resources.

28 (2) The department must provide a landowner who is either exempted
29 from submitting a road maintenance and abandonment plan under
30 subsection (1)(a) of this section, or who qualifies for a checklist
31 road maintenance and abandonment plan under subsection (1)(b) of this
32 section, with an educational brochure outlining road maintenance
33 standards and requirements. In addition, the department must develop
34 a series of nonmandatory educational workshops on the rules associated
35 with road construction and maintenance.

1 (3)(a) A landowner who qualifies for a checklist road maintenance
2 and abandonment plan under subsection (1)(b) of this section is only
3 required to submit a checklist, designed by the department in
4 consultation with the small forest landowner office advisory committee
5 created in RCW 76.13.110, that confirms that the landowner is applying
6 the checklist criteria to forest roads covered or affected by a forest
7 practices application or notification. When developing the checklist
8 road maintenance and abandonment plan, the department shall ensure that
9 the checklist does not exceed current state law. Nothing in this
10 subsection increases or adds to small forest landowners' duties or
11 responsibilities under any other section of the forest practices rules
12 or any other state law or rule.

13 (b) A landowner who qualifies for the checklist road maintenance
14 and abandonment plan is not required to submit the checklist before the
15 time that he or she submits a forest practices application or
16 notification for final or intermediate harvesting, or for salvage of
17 trees. The department may encourage and accept checklists prior to the
18 time that they are due.

19 (4) The department must monitor the extent of the checklist road
20 maintenance and abandonment plan approach and report its findings to
21 the appropriate committees of the legislature by December 31, 2008, and
22 December 31, 2013.

23 (5) The board shall adopt emergency rules under RCW 34.05.090 by
24 October 31, 2003, to implement this section. The emergency rules shall
25 remain in effect until permanent rules can be adopted. The forest
26 practices rules that relate to road maintenance and abandonment plans
27 shall remain in effect as they existed on the effective date of this
28 section until emergency rules have been adopted under this section.

29 (6) This section is only intended to relate to the board's duties
30 as they relate to the road maintenance and abandonment plan element of
31 the forests and fish report. Nothing in this section alters any forest
32 landowner's duties and responsibilities under any other section of the
33 forest practices rules, or any other state law or rule.

34 **Sec. 5.** RCW 76.09.055 and 2000 c 11 s 4 are each amended to read
35 as follows:

36 (1) The legislature finds that the ((declines)) levels of fish

1 stocks throughout much of the state require immediate action to be
2 taken to help (~~restore~~) these fish runs where possible. The
3 legislature also recognizes that federal and state agencies, tribes,
4 county representatives, and private timberland owners have spent
5 considerable effort and time to develop the forests and fish report.
6 Given the agreement of the parties, the legislature believes that the
7 immediate adoption of emergency rules is appropriate in this particular
8 instance. These rules can implement many provisions of the forests and
9 fish report to protect the economic well-being of the state, and to
10 minimize the risk to the state and landowners to legal challenges.
11 This authority is not designed to set any precedents for the forest
12 practices board in future rule making or set any precedents for other
13 rule-making bodies of the state.

14 (2) The forest practices board is authorized to adopt emergency
15 rules amending the forest practices rules with respect to the
16 protection of aquatic resources, in accordance with RCW 34.05.350,
17 except: (a)(i) That the rules adopted under this section may remain in
18 effect until permanent rules are adopted, or until June 30, 2001,
19 whichever is sooner; (ii) that the rules adopted under section 4(5) of
20 this act must remain in effect until permanent rules are adopted; (b)
21 notice of the proposed rules must be published in the Washington State
22 Register as provided in RCW 34.05.320; (c) at least one public hearing
23 must be conducted with an opportunity to provide oral and written
24 comments; and (d) a rule-making file must be maintained as required by
25 RCW 34.05.370. In adopting (~~the~~) emergency rules consistent with
26 this section, the board is not required to prepare a small business
27 economic impact statement under chapter 19.85 RCW, prepare a statement
28 indicating whether the rules constitute a significant legislative rule
29 under RCW 34.05.328, prepare a significant legislative rule analysis
30 under RCW 34.05.328, or follow the procedural requirements of the state
31 environmental policy act, chapter 43.21C RCW. Except as provided in
32 section 4 of this act, the forest practices board may only adopt
33 recommendations contained in the forests and fish report as emergency
34 rules under this section.

35 **Sec. 6.** RCW 76.09.390 and 1999 sp.s. c 4 s 707 are each amended to
36 read as follows:

1 (1) Except as provided in subsection (2) of this section, prior to
2 the sale or transfer of land or perpetual timber rights subject to
3 continuing forest land obligations under the forest practices rules
4 adopted under RCW 76.09.370, as specifically identified in the forests
5 and fish report the seller shall notify the buyer of the existence and
6 nature of such a continuing obligation and the buyer shall sign a
7 notice of continuing forest land obligation indicating the buyer's
8 knowledge thereof. The notice shall be on a form prepared by the
9 department and shall be sent to the department by the seller at the
10 time of sale or transfer of the land or perpetual timber rights and
11 retained by the department. If the seller fails to notify the buyer
12 about the continuing forest land obligation, the seller shall pay the
13 buyer's costs related to such continuing forest land obligation,
14 including all legal costs and reasonable attorneys' fees, incurred by
15 the buyer in enforcing the continuing forest land obligation against
16 the seller. Failure by the seller to send the required notice to the
17 department at the time of sale shall be prima facie evidence, in an
18 action by the buyer against the seller for costs related to the
19 continuing forest land obligation, that the seller did not notify the
20 buyer of the continuing forest land obligation prior to sale.

21 (2) Subsection (1) of this section does not apply to checklist road
22 maintenance and abandonment plans created by section 4 of this act.

23 NEW SECTION. Sec. 7. A new section is added to chapter 76.13 RCW
24 to read as follows:

25 (1) The legislature finds that a state-led cost-sharing program is
26 necessary to assist small forest landowners with removing and replacing
27 fish passage barriers that were added to their land prior to the
28 effective date of this section, to help achieve the goals of the
29 forests and fish report, and to assist small forest landowners in
30 complying with the state's fish passage requirements.

31 (2) The small forest landowner office must, in cooperation with the
32 department of fish and wildlife, establish a program designed to assist
33 small forest landowners with repairing or removing fish passage
34 barriers and assist lead entities in acquiring the data necessary to
35 fill any gaps in fish passage barrier information. The small forest
36 landowner office and the department of fish and wildlife must work

1 closely with lead entities or other local watershed groups to make
2 maximum use of current information regarding the location and priority
3 of current fish passage barriers. Where additional fish passage
4 barrier inventories are necessary, funding will be sought for the
5 collection of this information. Methods, protocols, and formulas for
6 data gathering and prioritizing must be developed in consultation with
7 the department of fish and wildlife. The department of fish and
8 wildlife must assist in the training and management of fish passage
9 barrier location data collection.

10 (3) The small forest landowner office must actively seek out
11 funding for the program authorized in this section. The small forest
12 landowner office must work with consenting landowners to identify and
13 secure funding from local, state, federal, tribal, or nonprofit habitat
14 restoration organizations and other private sources, including the
15 salmon recovery funding board, the United States department of
16 agriculture, the United States department of transportation, the
17 Washington state department of transportation, the United States
18 department of commerce, and the federal highway administration.

19 (4)(a) Except as otherwise provided in this subsection, the small
20 forest landowner office, in implementing the program established in
21 this section, must provide the highest proportion of public funding
22 available for the removal or replacement of any fish passage barrier.

23 (b) In no case shall a small forest landowner be required to pay
24 more than the lesser of either: (i) Twenty-five percent of any costs
25 associated with the removal or replacement of a particular fish passage
26 barrier; or (ii) five thousand dollars for the removal or replacement
27 of a particular fish passage barrier. No small forest landowner shall
28 be required to pay more than the maximum total annual costs in (c) of
29 this subsection.

30 (c) The portion of the total cost of removing or replacing fish
31 passage barriers that a small forest landowner must pay in any calendar
32 year shall be determined based on the average annual timber volume
33 harvested from the landowner's lands in this state during the three
34 preceding calendar years, and whether the fish passage barrier is in
35 eastern or western Washington.

36 (i) In western Washington (west of the Cascade Crest), a small
37 forest landowner who has harvested an average annual timber volume of

1 less than five hundred thousand board feet shall not be required to pay
2 more than a total of eight thousand dollars during that calendar year,
3 a small forest landowner who has harvested an annual average timber
4 volume between five hundred thousand and nine hundred ninety-nine
5 thousand board feet shall not be required to pay more than a total of
6 sixteen thousand dollars during that calendar year, a small forest
7 landowner who has harvested an average annual timber volume between one
8 million and one million four hundred ninety-nine thousand board feet
9 shall not be required to pay more than a total of twenty-four thousand
10 dollars during that calendar year, and a small forest landowner who has
11 harvested an average annual timber volume greater than or equal to one
12 million five hundred thousand board feet shall not be required to pay
13 more than a total of thirty-two thousand dollars during that calendar
14 year, regardless of the number of fish passage barriers removed or
15 replaced on the landowner's lands during that calendar year.

16 (ii) In eastern Washington (east of the Cascade Crest), a small
17 forest landowner who has harvested an average annual timber volume of
18 less than five hundred thousand board feet shall not be required to pay
19 more than a total of two thousand dollars during that calendar year, a
20 small forest landowner who has harvested an annual average timber
21 volume between five hundred thousand and nine hundred ninety-nine
22 thousand board feet shall not be required to pay more than a total of
23 four thousand dollars during that calendar year, a small forest
24 landowner who has harvested an average annual timber volume between one
25 million and one million four hundred ninety-nine thousand board feet
26 shall not be required to pay more than a total of twelve thousand
27 dollars during that calendar year, and a small forest landowner who has
28 harvested an average annual timber volume greater than or equal to one
29 million five hundred thousand board feet shall not be required to pay
30 more than a total of sixteen thousand dollars during that calendar
31 year, regardless of the number of fish passage barriers removed or
32 replaced on the landowner's lands during that calendar year.

33 (iii) Maximum total annual costs for small forest landowners with
34 fish passage barriers in both western and eastern Washington shall be
35 those specified under (c)(i) and (ii) of this subsection.

36 (d) If an existing fish passage barrier on land owned by a small
37 forest landowner was installed under an approved forest practices

1 application or notification, and hydraulics approval, and that fish
2 passage barrier becomes a high priority for fish passage based on the
3 watershed ranking in section 7 of this act, one hundred percent public
4 funding shall be provided.

5 (5) If a small forest landowner is required to contribute a portion
6 of the funding under the cost-share program established in this
7 section, that landowner may satisfy his or her required proportion by
8 providing either direct monetary contributions or in-kind services to
9 the project. In-kind services may include labor, equipment, materials,
10 and other landowner-provided services determined by the department to
11 have an appropriate value to the removal of a particular fish passage
12 barrier.

13 (6)(a) The department, using fish passage barrier assessments and
14 ranked inventory information provided by the department of fish and
15 wildlife and the appropriate lead entity as delineated in section 10 of
16 this act, must establish a prioritized list for the funding of fish
17 passage barrier removals on property owned by small forest landowners
18 that ensures that funding is provided first to the known fish passage
19 barriers existing on forest land owned by small forest landowners that
20 cause the greatest harm to public resources.

21 (b) As the department collects information about the presence of
22 fish passage barriers from submitted checklists, it must share this
23 information with the department of fish and wildlife and the technical
24 advisory groups established in RCW 77.85.070. If the addition of the
25 information collected in the checklists or any other changes to the
26 scientific instruments described in section 10 of this act alter the
27 analysis conducted under section 10 of this act, the department must
28 alter the funding order appropriately to reflect the new information.

29 (7) The department may accept commitments from small forest
30 landowners that they will participate in the program to remove fish
31 passage barriers from their land at any time, regardless of the funding
32 order given to the fish passage barriers on a particular landowner's
33 property.

34 NEW SECTION. **Sec. 8.** A new section is added to chapter 76.09 RCW
35 to read as follows:

1 Section 7 of this act applies to road maintenance and abandonment
2 plans under this chapter.

3 NEW SECTION. **Sec. 9.** A new section is added to chapter 76.09 RCW
4 to read as follows:

5 The department shall not disapprove a forest practices application
6 filed by a small forest landowner on the basis that fish passage
7 barriers have not been removed or replaced if the small forest
8 landowner filing the application has committed to participate in the
9 program established in section 7 of this act for all fish passage
10 barriers existing on the block of forest land covered by the forest
11 practices application, and the fish passage barriers existing on the
12 block of forest land covered by the forest practices application are
13 lower on the funding order list established for the program than the
14 current projects that are capable of being funded by the program.

15 NEW SECTION. **Sec. 10.** A new section is added to chapter 77.12 RCW
16 to read as follows:

17 In coordination with the department of natural resources and lead
18 entity groups, the department must establish a ranked inventory of fish
19 passage barriers on land owned by small forest landowners based on the
20 principle of fixing the worst first within a watershed consistent with
21 the fish passage priorities of the forest and fish report. The
22 department shall first gather and synthesize all available existing
23 information about the locations and impacts of fish passage barriers in
24 Washington. This information must include, but not be limited to, the
25 most recently available limiting factors analysis conducted pursuant to
26 RCW 77.85.060(2), the stock status information contained in the
27 department of fish and wildlife salmonid stock inventory (SASSI), the
28 salmon and steelhead habitat inventory and assessment project (SSHIAP),
29 and any comparable science-based assessment when available. The
30 inventory of fish passage barriers must be kept current and at a
31 minimum be updated by the beginning of each calendar year. Nothing in
32 this section grants the department or others additional right of entry
33 onto private property.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 76.09 RCW
2 to read as follows:

3 For the purposes of this chapter and sections 7 and 10 of this act,
4 "small forest landowner" means an owner of forest land who, at the time
5 of submission of required documentation to the department, has
6 harvested from his or her own lands in this state no more than an
7 average timber volume of two million board feet per year during the
8 three years prior to submitting documentation to the department and who
9 certifies that he or she does not expect to harvest from his or her own
10 lands in the state more than an average timber volume of two million
11 board feet per year during the ten years following the submission of
12 documentation to the department. However, any landowner who exceeded
13 the two million board feet annual average timber harvest threshold from
14 their land in the three years prior to submitting documentation to the
15 department, or who expects to exceed the threshold during any of the
16 following ten years, shall still be deemed a "small forest landowner"
17 if he or she establishes to the department's reasonable satisfaction
18 that the harvest limits were, or will be, exceeded in order to raise
19 funds to pay estate taxes or for an equally compelling and unexpected
20 obligation, such as for a court-ordered judgment or for extraordinary
21 medical expenses.

22 NEW SECTION. **Sec. 12.** The existing policy committees of the
23 senate and house of representatives that deal with natural resources
24 issues must review and study the implementation of this act, including
25 checklist preparation and the meaning of both defined and undefined
26 words in chapters 76.09 and 76.13 RCW, and report to the legislature by
27 January 2004.

28 NEW SECTION. **Sec. 13.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the
30 state government and its existing public institutions, and takes effect
31 immediately."

2SHB 1095 - S COMM AMD 319

By Senator Morton

ADOPTED 04/09/2003

1 On page 1, line 3 of the title, after "rules;" strike the remainder
2 of the title and insert "amending RCW 76.09.020, 76.09.055, and
3 76.09.390; adding new sections to chapter 76.09 RCW; adding a new
4 section to chapter 76.13 RCW; adding a new section to chapter 77.12
5 RCW; creating new sections; and declaring an emergency."

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