
SENATE BILL 5144

State of Washington

58th Legislature

2003 Regular Session

By Senators Morton and Oke

Read first time 01/15/2003. Referred to Committee on Natural Resources, Energy & Water.

1 AN ACT Relating to protecting forest health; amending RCW
2 76.06.010, 76.06.020, 76.06.030, 76.06.050, 76.09.050, and 17.24.171;
3 reenacting and amending RCW 76.09.060; adding new sections to chapter
4 76.06 RCW; and repealing RCW 76.06.040, 76.06.060, 76.06.070,
5 76.06.080, 76.06.090, and 76.06.110.

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

7 **Sec. 1.** RCW 76.06.010 and 1951 c 233 s 1 are each amended to read
8 as follows:

9 The legislature finds that:

10 (1) Forest insects and forest tree diseases ((which threaten the))
11 that create an imminent threat of permanent ((timber production of))
12 damage to the forested areas of the state of Washington are ((hereby
13 declared to be)) a public nuisance.

14 (2) Native forest insects and forest tree diseases are found in all
15 forest ecosystems. At endemic levels, native forest insects and tree
16 diseases are important components of a healthy forest, serving as
17 critical agents in forest succession and renewal, and in meeting
18 habitat needs of other forest species. Forest insect and tree disease
19 outbreaks that reach epidemic levels can result in unhealthy forests,

1 put other forest resources at risk, threaten the values enjoyed by
2 forest landowners and the public, and increase risk of catastrophic
3 fire. It is in the public interest to monitor forest insects and
4 diseases, to identify potential areas of concern, and to promote
5 cooperative efforts to assist forest landowners in managing forests to
6 maintain insect and disease populations at appropriate levels.

7 (3) Exotic forest insects or diseases, even in small numbers, can
8 constitute serious threats to native forests. Native tree species may
9 lack natural immunity. There are often no natural control agents such
10 as diseases, predators, or parasites to limit populations of exotic
11 forest insects or diseases. Exotic forest insects or diseases can also
12 outcompete, displace, or destroy habitat of native species. It is in
13 the public interest to identify, control, and eradicate outbreaks of
14 exotic forest insects or diseases that threaten the diversity,
15 abundance, and survivability of native forest trees and the
16 environment.

17 **Sec. 2.** RCW 76.06.020 and 2000 c 11 s 2 are each amended to read
18 as follows:

19 ~~((As used in))~~ The definitions in this section apply throughout
20 this chapter~~((÷))~~ unless the context clearly requires otherwise.

21 ~~((("Agent" means the recognized legal representative,~~
22 ~~representatives, agent, or agents for any owner;))~~ "Commissioner" means
23 the commissioner of public lands.

24 (2) "Department" means the department of natural resources~~((÷~~

25 ~~(3) "Owner" means and includes individuals, partnerships,~~
26 ~~corporations, and associations;))~~.

27 ~~((÷4) "Timber land"))~~ (3) "Endemic" means a population level of
28 forest insects or diseases that is generally not large or potent enough
29 to overcome and kill a significant number of otherwise healthy trees.

30 (4) "Epidemic" means a population level of forest insects or
31 diseases that is large or potent enough to overcome and kill a
32 significant number of otherwise healthy trees over a large area.

33 (5) "Exotic" means not native to forest lands in Washington state.

34 (6) "Forest land" means any nontribal and nonfederal land on which
35 there ~~((is a))~~ are sufficient numbers and distribution of trees~~((÷~~
36 ~~standing or down, to constitute, in the judgment of the department, a))~~
37 and associated species to contribute to the spread of forest insect or

1 forest disease (~~((breeding ground of a nature to constitute a menace,))~~)
2 outbreaks that could be injurious (~~((and dangerous))~~) to (~~((permanent))~~)
3 forest (~~((growth in the district under consideration))~~) health.

4 (7) "Forest health" means the condition of a forest being sound in
5 ecological function, sustainable, resilient and resistant to insects,
6 diseases, fire, and other disturbance, and having the capacity to meet
7 landowner objectives.

8 (8) "Forest health emergency" means the introduction of, or an
9 outbreak of, an exotic forest insect or disease that poses an imminent
10 danger of damage to the environment by threatening the survivability of
11 native tree species.

12 (9) "Forest insect or disease" means a living stage of an insect,
13 other invertebrate animal, or disease causing organism or agent that
14 can directly or indirectly injure or cause disease or damage in trees,
15 or parts of trees, or in processed or manufactured wood, or other
16 products of trees.

17 (10) "Forest landowner" means the owner, or their recognized legal
18 representative, representatives, agent, or agents of any nontribal or
19 nonfederal forest land.

20 (11) "Integrated pest management" means a strategy that uses
21 various combinations of pest control methods, biological, cultural, and
22 chemical, in a compatible manner to achieve satisfactory control and
23 ensure favorable economic and environmental consequences.

24 (12) "Native" means having populated Washington's forested lands
25 prior to European settlement.

26 (13) "Outbreak" means a rapidly expanding population of insects or
27 diseases with potential to spread.

28 (14) "Owner" includes persons, partnerships, corporations,
29 associations, state agencies, or political subdivisions of the state
30 that own forest land.

31 (15) "Person" means any individual, partnership, private, public,
32 or municipal corporation, county, federal, state, or local governmental
33 agency, tribes, or association of individuals of whatever nature.

34 **Sec. 3.** RCW 76.06.030 and 1988 c 128 s 16 are each amended to read
35 as follows:

36 (1) This chapter shall be administered by the department.

1 (2) The department is authorized to use those funds as are made
2 available to monitor the health of the forest lands of the state,
3 provide forest health information and assistance to landowners and
4 managers, promote integrated forest pest management, and conduct and
5 assist in cooperative forest health management programs and projects.

6 (3) The department is authorized to coordinate, support, and assist
7 in the establishment of cooperative forest health projects to control
8 and contain outbreaks of forest insects or diseases that threaten
9 forest resources on affected areas, or that have the potential to
10 spread onto adjoining forest lands. Priority for assistance authorized
11 under this section must be given to forest lands within forest health
12 areas of concern and in areas where forest health decline has resulted
13 in increased risk to public safety from catastrophic wildfire.

14 (4) The department is not obligated to provide assistance, and the
15 authority under this section does not limit or replace any other
16 authority the department may have. The state and its officers and
17 employees are not liable for damages to a person or their property to
18 the extent that liability is asserted to arise from providing or
19 failing to provide assistance.

20 NEW SECTION. Sec. 4. A new section is added to chapter 76.06 RCW
21 to read as follows:

22 Landowners are encouraged to maintain their forest lands in a
23 healthy, vigorous condition in order to meet their individual ownership
24 objectives and to avoid contributing to forest insect or disease
25 outbreaks or increasing the risk of catastrophic fire.

26 Sec. 5. RCW 76.06.050 and 1988 c 128 s 17 are each amended to read
27 as follows:

28 Whenever the department ~~((finds timber lands threatened by~~
29 ~~infestations of forest insects or forest tree diseases, and if it finds~~
30 ~~that such infestation is of such character as to threaten destruction~~
31 ~~of timber stands)) identifies forest lands where poor forest health is~~
32 ~~creating a threat of widespread loss of forest resource values,~~ the
33 department ~~((shall))~~ may declare a forest health area of concern and
34 ~~((certify an infestation control district and fix and declare the))~~ map
35 its boundaries ~~((thereof)),~~ so as to ~~((definitely describe such~~
36 ~~district))~~ clearly identify the area. ~~((Said district may include~~

1 ~~timber lands threatened by the infestation as well as those timber~~
2 ~~lands already infested.))~~ Forest health areas of concern may include,
3 but are not limited to, forest lands threatened by forest insect or
4 disease outbreaks, forest lands already affected, and areas where
5 public safety is at risk of catastrophic fire due to overstocking and
6 poor vigor of tree species highly susceptible to insects, diseases, and
7 wild fire.

8 ((Thereafter)) The department shall ((~~at once serve written~~))
9 provide notice to ((~~all~~)) owners of ((~~timber~~)) forest lands or their
10 agents within the ((~~said district to proceed under the provisions of~~
11 ~~this chapter without delay to control, destroy and eradicate the said~~
12 ~~forest insect pests or forest tree diseases as provided herein~~)) forest
13 health area of concern. The ((~~said~~)) notice may be made by personal
14 ((~~service, or~~)) contact, by mail ((~~addressed to the last known place or~~
15 ~~address of such owner or agent~~)), through local media, or through
16 cooperative educational programs. ((~~Said~~)) The notice shall ((~~list and~~
17 ~~describe the method or methods of action that will be acceptable to the~~
18 ~~department if the owner or agent elects to control, destroy and~~
19 ~~eradicate said insects or diseases on his own property.~~

20 ~~Said notice when published for five consecutive days in at least~~
21 ~~one daily newspaper or in two consecutive issues of a weekly newspaper,~~
22 ~~either paper having a general circulation in said district will serve~~
23 ~~as the written notice to owners of noncommercial timber lands))~~
24 identify the forest health area of concern and describe the insect or
25 disease species of concern, or other forest health problem. The
26 department must list and describe the range of integrated pest
27 management methods of action that are most likely to be effective in
28 controlling the spread of the insects or diseases, or in reducing the
29 risk of catastrophic fire.

30 Landowners should utilize the methods that will best meet their
31 individual ownership objectives but should take appropriate action to
32 prevent the spread of forest insect or disease outbreaks and to reduce
33 the risk of wildfire spreading onto adjoining forest lands.

34 When the department determines that forest insect or disease
35 control work within a designated forest health area of concern is no
36 longer necessary or feasible, the department must dissolve the forest
37 health area of concern.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 76.06 RCW
2 to read as follows:

3 The department is authorized to contribute resources and expertise
4 to assist the department of agriculture in control or eradication
5 efforts authorized under chapter 17.24 RCW in order to protect forest
6 lands of the state.

7 If either the department of agriculture has not taken action under
8 chapter 17.24 RCW or the commissioner finds that additional efforts are
9 required to control or prevent an outbreak of an exotic forest insect
10 or disease that poses an imminent danger of damage to the environment
11 by threatening the diversity, abundance, and survivability of native
12 trees species, or both, the commissioner may declare a forest health
13 emergency.

14 Upon declaration of a forest health emergency, the department must
15 delineate the area at risk and determine the most appropriate
16 integrated pest management methods to control the outbreak, in
17 consultation with other interested agencies and landowners. The
18 department must notify affected landowners of its intent to conduct
19 control operations.

20 Upon declaration of a forest health emergency by the commissioner,
21 the department is authorized to enter into agreements with landowners,
22 companies, individuals, and other agencies to accomplish control of
23 exotic forest insects or diseases on any affected forest lands using
24 such funds as have been, or may be, made available.

25 The department must proceed with the control of the exotic forest
26 insects or diseases on affected forest lands with or without the
27 cooperation of the owner. The department may reimburse cooperating
28 landowners and agencies for actual cost of equipment, labor, and
29 materials utilized in cooperative exotic forest insect or disease
30 control projects, as agreed to by the department.

31 A forest health emergency no longer exists when the department
32 finds that the exotic forest insect or disease has been controlled or
33 eradicated, that the imminent threat no longer exists, or that there is
34 no longer good likelihood of effective control.

35 Nothing under this chapter diminishes the authority and
36 responsibility of the department of agriculture under chapter 17.24
37 RCW.

1 **Sec. 7.** RCW 76.09.050 and 2002 c 121 s 1 are each amended to read
2 as follows:

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

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

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

22 (a) On lands platted after January 1, 1960, as provided in chapter
23 58.17 RCW or on lands that have or are being converted to another use;

24 (b) Which require approvals under the provisions of the hydraulics
25 act, RCW 77.55.100;

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

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

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

31 Class III: Forest practices other than those contained in Class I,
32 II, or IV. A Class III application must be approved or disapproved by
33 the department within thirty calendar days from the date the department
34 receives the application. However, the applicant may not begin work on
35 that forest practice until all forest practice fees required under RCW
36 76.09.065 have been received by the department;

37 Class IV: Forest practices other than those contained in Class I
38 or II: (a) On lands platted after January 1, 1960, as provided in

1 chapter 58.17 RCW, (b) on lands that have or are being converted to
2 another use, (c) on lands which, pursuant to RCW 76.09.070 as now or
3 hereafter amended, are not to be reforested because of the likelihood
4 of future conversion to urban development, (d) involving timber
5 harvesting or road construction on lands that are contained within
6 "urban growth areas," designated pursuant to chapter 36.70A RCW, except
7 where the forest landowner provides: (i) A written statement of intent
8 signed by the forest landowner not to convert to a use other than
9 commercial forest product operations for ten years, accompanied by
10 either a written forest management plan acceptable to the department or
11 documentation that the land is enrolled under the provisions of chapter
12 84.33 RCW; or (ii) a conversion option harvest plan approved by the
13 local governmental entity and submitted to the department as part of
14 the application, and/or (e) which have a potential for a substantial
15 impact on the environment and therefore require an evaluation by the
16 department as to whether or not a detailed statement must be prepared
17 pursuant to the state environmental policy act, chapter 43.21C RCW.
18 Such evaluation shall be made within ten days from the date the
19 department receives the application: PROVIDED, That nothing herein
20 shall be construed to prevent any local or regional governmental entity
21 from determining that a detailed statement must be prepared for an
22 action pursuant to a Class IV forest practice taken by that
23 governmental entity concerning the land on which forest practices will
24 be conducted. A Class IV application must be approved or disapproved
25 by the department within thirty calendar days from the date the
26 department receives the application, unless the department determines
27 that a detailed statement must be made, in which case the application
28 must be approved or disapproved by the department within sixty calendar
29 days from the date the department receives the application, unless the
30 commissioner of public lands, through the promulgation of a formal
31 order, determines that the process cannot be completed within such
32 period. However, the applicant may not begin work on that forest
33 practice until all forest practice fees required under RCW 76.09.065
34 have been received by the department.

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

1 (2) Except for those forest practices being regulated by local
2 governmental entities as provided elsewhere in this chapter, no Class
3 II, Class III, or Class IV forest practice shall be commenced or
4 continued after January 1, 1975, unless the department has received a
5 notification with regard to a Class II forest practice or approved an
6 application with regard to a Class III or Class IV forest practice
7 containing all information required by RCW 76.09.060 as now or
8 hereafter amended. However, in the event forest practices regulations
9 necessary for the scheduled implementation of this chapter and RCW
10 90.48.420 have not been adopted in time to meet such schedules, the
11 department shall have the authority to regulate forest practices and
12 approve applications on such terms and conditions consistent with this
13 chapter and RCW 90.48.420 and the purposes and policies of RCW
14 76.09.010 until applicable forest practices regulations are in effect.

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

21 (4) Except for those forest practices being regulated by local
22 governmental entities as provided elsewhere in this chapter, forest
23 practices shall be conducted in accordance with the forest practices
24 regulations, orders and directives as authorized by this chapter or the
25 forest practices regulations, and the terms and conditions of any
26 approved applications.

27 (5) Except for those forest practices being regulated by local
28 governmental entities as provided elsewhere in this chapter, the
29 department of natural resources shall notify the applicant in writing
30 of either its approval of the application or its disapproval of the
31 application and the specific manner in which the application fails to
32 comply with the provisions of this section or with the forest practices
33 regulations. Except as provided otherwise in this section, if the
34 department fails to either approve or disapprove an application or any
35 portion thereof within the applicable time limit, the application shall
36 be deemed approved and the operation may be commenced: PROVIDED, That
37 this provision shall not apply to applications which are neither
38 approved nor disapproved pursuant to the provisions of subsection (7)

1 of this section: PROVIDED, FURTHER, That if seasonal field conditions
2 prevent the department from being able to properly evaluate the
3 application, the department may issue an approval conditional upon
4 further review within sixty days: PROVIDED, FURTHER, That the
5 department shall have until April 1, 1975, to approve or disapprove an
6 application involving forest practices allowed to continue to April 1,
7 1975, under the provisions of subsection (2) of this section. Upon
8 receipt of any notification or any satisfactorily completed application
9 the department shall in any event no later than two business days after
10 such receipt transmit a copy to the departments of ecology and fish and
11 wildlife, and to the county, city, or town in whose jurisdiction the
12 forest practice is to be commenced. Any comments by such agencies
13 shall be directed to the department of natural resources.

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

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

23 (a) The department receives written notice from the county, city,
24 or town of such objections within fourteen business days from the time
25 of transmittal of the application to the county, city, or town, or one
26 day before the department acts on the application, whichever is later;
27 and

28 (b) The objections relate to lands either:

29 (i) Platted after January 1, 1960, as provided in chapter 58.17
30 RCW; or

31 (ii) On lands that have or are being converted to another use.

32 The department shall either disapprove those portions of such
33 application or appeal the county, city, or town objections to the
34 appeals board. If the objections related to subparagraphs (b)(i) and
35 (ii) of this subsection are based on local authority consistent with
36 RCW 76.09.240 as now or hereafter amended, the department shall
37 disapprove the application until such time as the county, city, or town
38 consents to its approval or such disapproval is reversed on appeal.

1 The applicant shall be a party to all department appeals of county,
2 city, or town objections. Unless the county, city, or town either
3 consents or has waived its rights under this subsection, the department
4 shall not approve portions of an application affecting such lands until
5 the minimum time for county, city, or town objections has expired.

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

13 (9) For those forest practices regulated by the board and the
14 department, appeals under this section shall be made to the appeals
15 board in the manner and time provided in RCW 76.09.220(8). In such
16 appeals there shall be no presumption of correctness of either the
17 county, city, or town or the department position.

18 (10) For those forest practices regulated by the board and the
19 department, the department shall, within four business days notify the
20 county, city, or town of all notifications, approvals, and disapprovals
21 of an application affecting lands within the county, city, or town,
22 except to the extent the county, city, or town has waived its right to
23 such notice.

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

28 (12) Notwithstanding subsections (2) through (5) of this section,
29 forest practices applications or notifications are not required for
30 exotic insect and disease control operations conducted in accordance
31 with RCW 76.09.060(8).

32 **Sec. 8.** RCW 76.09.060 and 1997 c 290 s 3 and 1997 c 173 s 3 are
33 each reenacted and amended to read as follows:

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

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

11 (a) Name and address of the forest landowner, timber owner, and
12 operator;

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

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

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

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

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

27 (g) Soil, geological, and hydrological data with respect to forest
28 practices;

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

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

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

36 (k) All necessary application or notification fees.

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

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

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

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

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

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

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

22 (i) For six years after the date of the application the county,
23 city, town, and regional governmental entities shall deny any or all
24 applications for permits or approvals, including building permits and
25 subdivision approvals, relating to nonforestry uses of land subject to
26 the application;

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

1 (B) The department shall collect the recording fee and reimburse
2 the local governmental entity for the cost of recording the
3 application.

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

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

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

16 (F) The six-year moratorium shall not be imposed on a forest
17 practices application that contains a conversion option harvest plan
18 approved by the local governmental entity unless the forest practice
19 was not in compliance with the approved forest practice permit. Where
20 not in compliance with the conversion option harvest plan, the six-year
21 moratorium shall be imposed from the date the application was approved
22 by the department or the local governmental entity;

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

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

35 (c) The application or notification shall be signed by the forest
36 landowner and accompanied by a statement signed by the forest landowner
37 indicating his or her intent with respect to conversion and

1 acknowledging that he or she is familiar with the effects of this
2 subsection.

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

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

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

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

1 (8) Forest practices applications or notifications are not required
2 for forest practices conducted to control exotic forest insect or
3 disease outbreaks, when conducted by or under the direction of the
4 department of agriculture in carrying out an order of the governor or
5 director of the department of agriculture to implement pest control
6 measures as authorized under chapter 17.24 RCW, and are not required
7 when conducted by or under the direction of the department in carrying
8 out emergency measures under a forest health emergency declaration by
9 the commissioner of public lands as provided in section 6 of this act.

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

12 (b) In order to minimize adverse impacts to public resources,
13 control measures must be based on integrated pest management, as
14 defined in RCW 17.15.010, and must follow forest practices rules
15 relating to road construction and maintenance, timber harvest, and
16 forest chemicals, to the extent that control objectives can still be
17 met.

18 (c) Agencies conducting or directing control efforts must provide
19 advance notice to the forest practice section of the department of the
20 operations that would be subject to exemption from forest practices
21 application or notification requirements.

22 (d) When the department is notified under (c) of this subsection,
23 a member of the department's forest practices staff must consult with
24 other interested agencies, including the department of ecology and
25 tribes, and assist notifying agencies in the development of integrated
26 pest management plans to comply with forest practices rules as required
27 under (b) of this subsection.

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

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

34 (g) The exemption from obtaining approved forest practices
35 applications or notifications does not apply to forest practices
36 conducted after the governor, the director of the department of
37 agriculture, or the commissioner of public lands have declared that an

1 emergency no longer exists because control objectives have been met,
2 that there is no longer an imminent threat, or that there is no longer
3 a good likelihood of control.

4 **Sec. 9.** RCW 17.24.171 and 1991 c 257 s 21 are each amended to read
5 as follows:

6 (1) If the director determines that there exists an imminent danger
7 of an infestation of plant pests or plant diseases that seriously
8 endangers the agricultural or horticultural industries of the state, or
9 that seriously threatens life, health, ~~((or))~~ economic well-being, or
10 the environment, the director shall request the governor to order
11 emergency measures to control the pests or plant diseases under RCW
12 43.06.010~~((+14))~~ (13). The director's findings shall contain an
13 evaluation of the affect of the emergency measures on public health.

14 (2) If an emergency is declared pursuant to RCW 43.06.010~~((+14))~~
15 (13), the director may appoint a committee to advise the governor
16 through the director and to review emergency measures necessary under
17 the authority of RCW 43.06.010~~((+14))~~ (13) and this section and make
18 subsequent recommendations to the governor. The committee shall
19 include representatives of the agricultural industries, state and local
20 government, public health interests, technical service providers, and
21 environmental organizations.

22 (3) Upon the order of the governor of the use of emergency
23 measures, the director is authorized to implement the emergency
24 measures to prevent, control, or eradicate plant pests or plant
25 diseases that are the subject of the emergency order. Such measures,
26 after thorough evaluation of all other alternatives, may include the
27 aerial application of pesticides.

28 (4) Upon the order of the governor of the use of emergency
29 measures, the director is authorized to enter into agreements with
30 individuals ~~((or))~~, companies, or ~~((both))~~ agencies, to accomplish the
31 prevention, control, or eradication of plant pests or plant diseases,
32 notwithstanding the provisions of chapter 15.58 or 17.21 RCW, or any
33 other statute.

34 (5) The director shall continually evaluate the emergency measures
35 taken and report to the governor at intervals of not less than ten
36 days. The director shall immediately advise the governor if he or she

1 finds that the emergency no longer exists or if certain emergency
2 measures should be discontinued.

3 NEW SECTION. **Sec. 10.** The following acts or parts of acts are
4 each repealed:

5 (1) RCW 76.06.040 (Owner must control pests and diseases) and 1951
6 c 233 s 4;

7 (2) RCW 76.06.060 (Department to control pests and diseases if
8 owner fails) and 1988 c 128 s 18 & 1951 c 233 s 6;

9 (3) RCW 76.06.070 (Lien for costs of control--Collection) and 1988
10 c 128 s 19 & 1951 c 233 s 7;

11 (4) RCW 76.06.080 (Owner complying with notice is exempt) and 1988
12 c 128 s 20 & 1951 c 233 s 11;

13 (5) RCW 76.06.090 (Dissolution of infestation control district) and
14 1988 c 128 s 21 & 1951 c 233 s 12; and

15 (6) RCW 76.06.110 (Deposit of moneys in general fund--Allotment as
16 unanticipated receipts) and 1979 ex.s. c 67 s 12 & 1951 c 233 s 9.

--- END ---