

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5144

Chapter 314, Laws of 2003

58th Legislature
2003 Regular Session

FOREST HEALTH

EFFECTIVE DATE: 7/27/03

Passed by the Senate April 23, 2003
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 16, 2003
YEAS 94 NAYS 3

FRANK CHOPP

Speaker of the House of Representatives

Approved May 14, 2003.

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
SUBSTITUTE SENATE BILL 5144 as
passed by the Senate and the House
of Representatives on the dates
hereon set forth.

MILTON H. DOUMIT JR.

Secretary

FILED

May 14, 2003 - 3:44 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5144

AS AMENDED BY THE HOUSE

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Morton and Oke)

READ FIRST TIME 02/28/03.

1 AN ACT Relating to protecting forest health; amending RCW
2 76.06.010, 76.06.020, 76.09.050, and 17.24.171; reenacting and amending
3 RCW 76.09.060; adding a new section to chapter 76.06 RCW; adding a new
4 section to chapter 17.24 RCW; and creating a new section.

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

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

8 The legislature finds and declares that:

9 (1) Forest insects and forest tree diseases which threaten the
10 permanent timber production of the forested areas of the state of
11 Washington are ((hereby declared to be)) a public nuisance.

12 (2) Exotic forest insects or diseases, even in small numbers, can
13 constitute serious threats to native forests. Native tree species may
14 lack natural immunity. There are often no natural control agents such
15 as diseases, predators, or parasites to limit populations of exotic
16 forest insects or diseases. Exotic forest insects or diseases can also
17 outcompete, displace, or destroy habitat of native species. It is in
18 the public interest to identify, control, and eradicate outbreaks of

1 exotic forest insects or diseases that threaten the diversity,
2 abundance, and survivability of native forest trees and the
3 environment.

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

6 ~~((As used in))~~ The definitions in this section apply throughout
7 this chapter((+)) unless the context clearly requires otherwise.

8 (1) "Agent" means the recognized legal representative,
9 representatives, agent, or agents for any owner((+)).

10 (2) "Department" means the department of natural resources((+)).

11 (3) "Owner" means and includes ~~((individuals, partnerships,~~
12 ~~corporations, and associations;+))~~ persons or their agents.

13 (4) "Timber land" means any land on which there is a sufficient
14 number of trees, standing or down, to constitute, in the judgment of
15 the department, a forest insect or forest disease breeding ground of a
16 nature to constitute a menace, injurious and dangerous to permanent
17 forest growth in the district under consideration.

18 (5) "Commissioner" means the commissioner of public lands.

19 (6) "Exotic" means not native to forest lands in Washington state.

20 (7) "Forest land" means any land on which there are sufficient
21 numbers and distribution of trees and associated species to, in the
22 judgment of the department, contribute to the spread of forest insect
23 or forest disease outbreaks that could be injurious to forest health.

24 (8) "Forest health" means the condition of a forest being sound in
25 ecological function, sustainable, resilient, and resistant to insects,
26 diseases, fire, and other disturbance, and having the capacity to meet
27 landowner objectives.

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

32 (10) "Forest insect or disease" means a living stage of an insect,
33 other invertebrate animal, or disease-causing organism or agent that
34 can directly or indirectly injure or cause disease or damage in trees,
35 or parts of trees, or in processed or manufactured wood, or other
36 products of trees.

1 (11) "Integrated pest management" means a strategy that uses
2 various combinations of pest control methods, including biological,
3 cultural, and chemical methods, in a compatible manner to achieve
4 satisfactory control and ensure favorable economic and environmental
5 consequences.

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

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

10 (14) "Person" means any individual, partnership, private, public,
11 or municipal corporation, county, federal, state, or local governmental
12 agency, tribes, or association of individuals of whatever nature.

13 NEW SECTION. Sec. 3. A new section is added to chapter 76.06 RCW
14 to read as follows:

15 The department is authorized to contribute resources and expertise
16 to assist the department of agriculture in control or eradication
17 efforts authorized under chapter 17.24 RCW in order to protect forest
18 lands of the state.

19 If either the department of agriculture has not taken action under
20 chapter 17.24 RCW or the commissioner finds that additional efforts are
21 required to control or prevent an outbreak of an exotic forest insect
22 or disease which has not become so habituated that it can no longer be
23 eradicated and that poses an imminent danger of damage to the forested
24 environment by threatening the diversity, abundance, and survivability
25 of native tree species, or both, the commissioner may declare a forest
26 health emergency.

27 Upon declaration of a forest health emergency, the department must
28 delineate the area at risk and determine the most appropriate
29 integrated pest management methods to control the outbreak, in
30 consultation with other interested agencies, affected tribes, and
31 affected forest landowners. The department must notify affected forest
32 landowners of its intent to conduct control operations.

33 Upon declaration of a forest health emergency by the commissioner,
34 the department is authorized to enter into agreements with forest
35 landowners, companies, individuals, tribal entities, and federal,
36 state, and local agencies to accomplish control of exotic forest

1 insects or diseases on any affected forest lands using such funds as
2 have been, or may be, made available.

3 The department must proceed with the control of the exotic forest
4 insects or diseases on affected nonfederal and nontribal forest lands
5 with or without the cooperation of the owner. The department may
6 reimburse cooperating forest landowners and agencies for actual cost of
7 equipment, labor, and materials utilized in cooperative exotic forest
8 insect or disease control projects, as agreed to by the department.

9 A forest health emergency no longer exists when the department
10 finds that the exotic forest insect or disease has been controlled or
11 eradicated, that the imminent threat no longer exists, or that there is
12 no longer good likelihood of effective control.

13 Nothing under this chapter diminishes the authority and
14 responsibility of the department of agriculture under chapter 17.24
15 RCW.

16 **Sec. 4.** RCW 76.09.050 and 2002 c 121 s 1 are each amended to read
17 as follows:

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

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

28 Class II: Forest practices which have a less than ordinary
29 potential for damaging a public resource that may be conducted without
30 submitting an application and may begin five calendar days, or such
31 lesser time as the department may determine, after written notification
32 by the operator, in the manner, content, and form as prescribed by the
33 department, is received by the department. However, the work may not
34 begin until all forest practice fees required under RCW 76.09.065 have
35 been received by the department. Class II shall not include forest
36 practices:

1 (a) On lands platted after January 1, 1960, as provided in chapter
2 58.17 RCW or on lands that have or are being converted to another use;

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

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

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

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

10 Class III: Forest practices other than those contained in Class I,
11 II, or IV. A Class III application must be approved or disapproved by
12 the department within thirty calendar days from the date the department
13 receives the application. However, the applicant may not begin work on
14 that forest practice until all forest practice fees required under RCW
15 76.09.065 have been received by the department;

16 Class IV: Forest practices other than those contained in Class I
17 or II: (a) On lands platted after January 1, 1960, as provided in
18 chapter 58.17 RCW, (b) on lands that have or are being converted to
19 another use, (c) on lands which, pursuant to RCW 76.09.070 as now or
20 hereafter amended, are not to be reforested because of the likelihood
21 of future conversion to urban development, (d) involving timber
22 harvesting or road construction on lands that are contained within
23 "urban growth areas," designated pursuant to chapter 36.70A RCW, except
24 where the forest landowner provides: (i) A written statement of intent
25 signed by the forest landowner not to convert to a use other than
26 commercial forest product operations for ten years, accompanied by
27 either a written forest management plan acceptable to the department or
28 documentation that the land is enrolled under the provisions of chapter
29 84.33 RCW; or (ii) a conversion option harvest plan approved by the
30 local governmental entity and submitted to the department as part of
31 the application, and/or (e) which have a potential for a substantial
32 impact on the environment and therefore require an evaluation by the
33 department as to whether or not a detailed statement must be prepared
34 pursuant to the state environmental policy act, chapter 43.21C RCW.
35 Such evaluation shall be made within ten days from the date the
36 department receives the application: PROVIDED, That nothing herein
37 shall be construed to prevent any local or regional governmental entity
38 from determining that a detailed statement must be prepared for an

1 action pursuant to a Class IV forest practice taken by that
2 governmental entity concerning the land on which forest practices will
3 be conducted. A Class IV application must be approved or disapproved
4 by the department within thirty calendar days from the date the
5 department receives the application, unless the department determines
6 that a detailed statement must be made, in which case the application
7 must be approved or disapproved by the department within sixty calendar
8 days from the date the department receives the application, unless the
9 commissioner of public lands, through the promulgation of a formal
10 order, determines that the process cannot be completed within such
11 period. However, the applicant may not begin work on that forest
12 practice until all forest practice fees required under RCW 76.09.065
13 have been received by the department.

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

17 (2) Except for those forest practices being regulated by local
18 governmental entities as provided elsewhere in this chapter, no Class
19 II, Class III, or Class IV forest practice shall be commenced or
20 continued after January 1, 1975, unless the department has received a
21 notification with regard to a Class II forest practice or approved an
22 application with regard to a Class III or Class IV forest practice
23 containing all information required by RCW 76.09.060 as now or
24 hereafter amended. However, in the event forest practices regulations
25 necessary for the scheduled implementation of this chapter and RCW
26 90.48.420 have not been adopted in time to meet such schedules, the
27 department shall have the authority to regulate forest practices and
28 approve applications on such terms and conditions consistent with this
29 chapter and RCW 90.48.420 and the purposes and policies of RCW
30 76.09.010 until applicable forest practices regulations are in effect.

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

37 (4) Except for those forest practices being regulated by local
38 governmental entities as provided elsewhere in this chapter, forest

1 practices shall be conducted in accordance with the forest practices
2 regulations, orders and directives as authorized by this chapter or the
3 forest practices regulations, and the terms and conditions of any
4 approved applications.

5 (5) Except for those forest practices being regulated by local
6 governmental entities as provided elsewhere in this chapter, the
7 department of natural resources shall notify the applicant in writing
8 of either its approval of the application or its disapproval of the
9 application and the specific manner in which the application fails to
10 comply with the provisions of this section or with the forest practices
11 regulations. Except as provided otherwise in this section, if the
12 department fails to either approve or disapprove an application or any
13 portion thereof within the applicable time limit, the application shall
14 be deemed approved and the operation may be commenced: PROVIDED, That
15 this provision shall not apply to applications which are neither
16 approved nor disapproved pursuant to the provisions of subsection (7)
17 of this section: PROVIDED, FURTHER, That if seasonal field conditions
18 prevent the department from being able to properly evaluate the
19 application, the department may issue an approval conditional upon
20 further review within sixty days: PROVIDED, FURTHER, That the
21 department shall have until April 1, 1975, to approve or disapprove an
22 application involving forest practices allowed to continue to April 1,
23 1975, under the provisions of subsection (2) of this section. Upon
24 receipt of any notification or any satisfactorily completed application
25 the department shall in any event no later than two business days after
26 such receipt transmit a copy to the departments of ecology and fish and
27 wildlife, and to the county, city, or town in whose jurisdiction the
28 forest practice is to be commenced. Any comments by such agencies
29 shall be directed to the department of natural resources.

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

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

1 (a) The department receives written notice from the county, city,
2 or town of such objections within fourteen business days from the time
3 of transmittal of the application to the county, city, or town, or one
4 day before the department acts on the application, whichever is later;
5 and

6 (b) The objections relate to lands either:

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

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

10 The department shall either disapprove those portions of such
11 application or appeal the county, city, or town objections to the
12 appeals board. If the objections related to subparagraphs (b)(i) and
13 (ii) of this subsection are based on local authority consistent with
14 RCW 76.09.240 as now or hereafter amended, the department shall
15 disapprove the application until such time as the county, city, or town
16 consents to its approval or such disapproval is reversed on appeal.
17 The applicant shall be a party to all department appeals of county,
18 city, or town objections. Unless the county, city, or town either
19 consents or has waived its rights under this subsection, the department
20 shall not approve portions of an application affecting such lands until
21 the minimum time for county, city, or town objections has expired.

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

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

34 (10) For those forest practices regulated by the board and the
35 department, the department shall, within four business days notify the
36 county, city, or town of all notifications, approvals, and disapprovals
37 of an application affecting lands within the county, city, or town,

1 except to the extent the county, city, or town has waived its right to
2 such notice.

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

7 (12) Notwithstanding subsections (2) through (5) of this section,
8 forest practices applications or notifications are not required for
9 exotic insect and disease control operations conducted in accordance
10 with RCW 76.09.060(8) where eradication can reasonably be expected.

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

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

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

26 (a) Name and address of the forest landowner, timber owner, and
27 operator;

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

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

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

36 (e) Description of the silvicultural, harvesting, or other forest

1 practice methods to be used, including the type of equipment to be used
2 and materials to be applied;

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

6 (g) Soil, geological, and hydrological data with respect to forest
7 practices;

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

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

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

15 (k) All necessary application or notification fees.

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

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

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

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

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

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

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

1 (i) For six years after the date of the application the county,
2 city, town, and regional governmental entities shall deny any or all
3 applications for permits or approvals, including building permits and
4 subdivision approvals, relating to nonforestry uses of land subject to
5 the application;

6 (A) The department shall submit to the local governmental entity a
7 copy of the statement of a forest landowner's intention not to convert
8 which shall represent a recognition by the landowner that the six-year
9 moratorium shall be imposed and shall preclude the landowner's ability
10 to obtain development permits while the moratorium is in place. This
11 statement shall be filed by the local governmental entity with the
12 county recording officer, who shall record the documents as provided in
13 chapter 65.04 RCW, except that lands designated as forest lands of
14 long-term commercial significance under chapter 36.70A RCW shall not be
15 recorded due to the low likelihood of conversion. Not recording the
16 statement of a forest landowner's conversion intention shall not be
17 construed to mean the moratorium is not in effect.

18 (B) The department shall collect the recording fee and reimburse
19 the local governmental entity for the cost of recording the
20 application.

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

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

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

33 (F) The six-year moratorium shall not be imposed on a forest
34 practices application that contains a conversion option harvest plan
35 approved by the local governmental entity unless the forest practice
36 was not in compliance with the approved forest practice permit. Where
37 not in compliance with the conversion option harvest plan, the six-year

1 moratorium shall be imposed from the date the application was approved
2 by the department or the local governmental entity;

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

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

15 (c) The application or notification shall be signed by the forest
16 landowner and accompanied by a statement signed by the forest landowner
17 indicating his or her intent with respect to conversion and
18 acknowledging that he or she is familiar with the effects of this
19 subsection.

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

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

31 (6) Except as provided in RCW 76.09.350(4), the notification to or
32 the approval given by the department to an application to conduct a
33 forest practice shall be effective for a term of two years from the
34 date of approval or notification and shall not be renewed unless a new
35 application is filed and approved or a new notification has been filed.
36 At the option of the applicant, an application or notification may be
37 submitted to cover a single forest practice or a number of forest
38 practices within reasonable geographic or political boundaries as

1 specified by the department. An application or notification that
2 covers more than one forest practice may have an effective term of more
3 than two years. The board shall adopt rules that establish standards
4 and procedures for approving an application or notification that has an
5 effective term of more than two years. Such rules shall include
6 extended time periods for application or notification approval or
7 disapproval. On an approved application with a term of more than two
8 years, the applicant shall inform the department before commencing
9 operations.

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

17 (8) Forest practices applications or notifications are not required
18 for forest practices conducted to control exotic forest insect or
19 disease outbreaks, when conducted by or under the direction of the
20 department of agriculture in carrying out an order of the governor or
21 director of the department of agriculture to implement pest control
22 measures as authorized under chapter 17.24 RCW, and are not required
23 when conducted by or under the direction of the department in carrying
24 out emergency measures under a forest health emergency declaration by
25 the commissioner of public lands as provided in section 3 of this act.

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

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

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

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

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

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

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

20 **Sec. 6.** RCW 17.24.171 and 1991 c 257 s 21 are each amended to read
21 as follows:

22 (1) If the director determines that there exists an imminent danger
23 of an infestation of plant pests or plant diseases that seriously
24 endangers the agricultural or horticultural industries of the state, or
25 that seriously threatens life, health, ~~((or))~~ economic well-being, or
26 the environment, the director shall request the governor to order
27 emergency measures to control the pests or plant diseases under RCW
28 43.06.010(~~((+14))~~) (13). The director's findings shall contain an
29 evaluation of the affect of the emergency measures on public health.

30 (2) If an emergency is declared pursuant to RCW 43.06.010(~~((+14))~~)
31 (13), the director may appoint a committee to advise the governor
32 through the director and to review emergency measures necessary under
33 the authority of RCW 43.06.010(~~((+14))~~) (13) and this section and make
34 subsequent recommendations to the governor. The committee shall
35 include representatives of the agricultural industries, state and local
36 government, public health interests, technical service providers, and
37 environmental organizations.

1 (3) Upon the order of the governor of the use of emergency
2 measures, the director is authorized to implement the emergency
3 measures to prevent, control, or eradicate plant pests or plant
4 diseases that are the subject of the emergency order. Such measures,
5 after thorough evaluation of all other alternatives, may include the
6 aerial application of pesticides.

7 (4) Upon the order of the governor of the use of emergency
8 measures, the director is authorized to enter into agreements with
9 individuals (~~(or)~~), companies, or (~~(both)~~) agencies, to accomplish the
10 prevention, control, or eradication of plant pests or plant diseases,
11 notwithstanding the provisions of chapter 15.58 or 17.21 RCW, or any
12 other statute.

13 (5) The director shall continually evaluate the emergency measures
14 taken and report to the governor at intervals of not less than ten
15 days. The director shall immediately advise the governor if he or she
16 finds that the emergency no longer exists or if certain emergency
17 measures should be discontinued.

18 NEW SECTION. **Sec. 7.** The legislature finds that since 1995 large
19 numbers of oak and tanoak trees have been dying in the coastal counties
20 of California. The legislature also finds that the disease causing the
21 tree loss, which is commonly referred to as sudden oak death syndrome,
22 has, as of the effective date of this act, been confirmed in twelve
23 California counties, and one Oregon county. The legislature also finds
24 that in addition to affecting several species of oak, this disease has
25 been confirmed to affect several plant species common in Washington's
26 forests, including Douglas Fir, big leaf maple, huckleberry,
27 rhododendron, madrone, and manzanita. The legislature recognizes that
28 the state of California and the United States department of agriculture
29 have adopted restrictions on the movement of articles that may host the
30 disease, and the state of Oregon and the Canadian government have
31 adopted restrictions on the importation of potential host articles.
32 The legislature finds that an introduction of sudden oak death syndrome
33 into Washington could cause potential damage to the state's forest
34 health, leading to both economic and ecological losses.

35 NEW SECTION. **Sec. 8.** A new section is added to chapter 17.24 RCW
36 to read as follows:

1 The department and the department of natural resources shall
2 coordinate their sudden oak death syndrome response efforts with other
3 plant pest agencies and private organizations to exchange information,
4 monitor the confirmed incidences of the disease, and take action as
5 appropriate under existing plant pest control authorities to prevent
6 the introduction of the disease into Washington and to control or
7 eradicate the disease if it is determined to be present in the state.

 Passed by the Senate April 23, 2003.

 Passed by the House April 16, 2003.

 Approved by the Governor May 14, 2003.

 Filed in Office of Secretary of State May 14, 2003.