

TITLE 38  
FORESTRY, FOREST PRODUCTS AND STUMPAGE DISTRICTS

CHAPTER 14  
RIGHT TO CONDUCT FOREST PRACTICES

38-1401. LEGISLATIVE FINDINGS AND INTENT. The legislature finds that forest practices conducted on forest land in urbanizing areas are often subjected to nuisance lawsuits, and that such suits encourage and even force the premature removal of the lands from forest uses and in some cases prohibit investments in forest improvements. It is the intent of the legislature to reduce the loss to the state of its forest resources by limiting the circumstances under which forest practices may be deemed to be a nuisance. The legislature also finds that the right to conduct forest practices is a natural right and is recognized as a permitted use in the state of Idaho.

[38-1401, added 1989, ch. 226, sec. 1, p. 541.]

38-1402. DEFINITIONS. As used in this chapter:

(1) "Forest land" means state and private land growing forest tree species which are, or could be at maturity, capable of furnishing raw material used in the manufacture of lumber or other forest products. The term includes state and private land from which forest tree species have been removed but have not yet been restocked, but it does not include land affirmatively converted to uses other than the growing of forest tree species.

(2) "Forest practice" means:

(a) The harvesting of forest tree species;

(b) Road construction associated with harvesting of forest tree species;

(c) Reforestation;

(d) Use of chemicals or fertilizers for the purpose of growing or managing forest tree species; or

(e) The management of slashings resulting from harvest, management or improvement of forest tree species.

(3) "Improper or negligent operation" means that the forest practice is not undertaken in conformity with federal, state and local laws and regulations, and adversely affects the public health and safety.

[38-1402, added 1989, ch. 226, sec. 1, p. 542.]

38-1403. FOREST PRACTICES NOT A NUISANCE -- EXCEPTION. No forest practices conducted on forest land or an appurtenance to it shall be or become a nuisance, private or public, by any changed conditions in or about the surrounding nonforest activities after the same has been in operation for more than one (1) year when the forest practice was not a nuisance at the time the forest practice began; provided, that the provisions of this section shall not apply whenever a nuisance results from the improper or negligent operation of any forest practice conducted on any forest land or appurtenance to it.

[38-1403, added 1989, ch. 226, sec. 1, p. 542.]

38-1404. LOCAL ORDINANCES -- PRIOR ACTIONS. Any and all ordinances of any unit of local government now in effect or hereafter adopted that would

make the operation of any forest practice conducted on forest land or an appurtenance to it a nuisance in the circumstances set forth in this chapter are and shall be null and void; provided, however, that the provisions of this section shall not apply whenever a nuisance results from the improper or negligent operation of any forest practice on forest land or an appurtenance to it. Provided further, that the provisions of this section shall not apply whenever a nuisance results from a forest practice on forest land located within the corporate limits of any city on July 1, 1989, nor shall the provisions of this chapter affect actions commenced prior to July 1, 1989.

[38-1404, added 1989, ch. 226, sec. 1, p. 542.]