

HOUSE BILL NO. 79

INTRODUCED BY C. COCHRAN

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING FOR A FIRE HAZARD REDUCTION AGREEMENT
EXEMPTION FOR SMALL-SCALE ACTIVITIES, INCLUDING THE HARVESTING OF FIREWOOD;
REQUIRING A WRITTEN EXEMPTION FOR CERTAIN MINIMUM SLASH HAZARD ACTIVITIES; AND
AMENDING SECTIONS 76-13-401 AND 76-13-408, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-13-401, MCA, is amended to read:

"76-13-401. Definitions. As used in this part, the following definitions apply:

(1) "Certificate of clearance" means a certificate issued by the department acknowledging that the fire hazard has been reduced or managed in accordance with this part and the fire hazard reduction agreement or agreements.

(2) "Contractor" means the person who executes the fire hazard reduction agreement and is responsible to fulfill the obligations established by the agreement.

(3) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(4) "Exemption certificate" means an exemption from the provisions of this part that must be granted by the department for the harvest of merchantable trees within the boundaries of an incorporated city or town.

(5) "Fire hazard" means slash and debris resulting from timber cutting, timber stand improvement, or right-of-way clearing operations that produce a cover of flammable material in which fire could spread through a cutting or adjacent area.

(6) "Fire hazard reduction agreement" means a contract made to ensure compliance with this part and with the rules adopted under 76-13-403 for fire hazard reduction or management on private forest lands.

(7) "Fire hazard reduction or management" means the abatement of a fire hazard on private forest lands by methods that include but are not limited to separation, removal, scattering, lopping, crushing, piling and burning, broadcast burning, burying, or chipping.

(8) "Forest product" means trees or their component parts, including but not limited to logs, poles, branches, or bark.

(9) "Master fire hazard reduction agreement" means a fire hazard reduction agreement between the department and persons engaged in continuing cutting operations of sufficient number and size to warrant covering these operations under a single agreement and a single bond.

(10) "Minimum slash hazard" means an amount of slash and debris generated by noncommercial activities or small-scale activities, which may include but are not limited to harvesting sawlogs or firewood, weeding, pruning, or clearing on private land within the state.

(11) "Person" means an individual, association, partnership, corporation, estate, or any other entity.

(12) "Private forest lands" means all lands of whatever character containing merchantable timber that are not owned by the state, a political subdivision of the state, the United States, any agency of the United States, or an Indian tribe.

(13) "Purchaser" means a person who purchases or contracts to purchase any forest products cut from private forest lands within the state. The term includes persons who purchase products manufactured on the cutting area.

(14) "Small-scale activity" means an activity in which the amount of forest products sold:

(a) does not exceed a single delivery that is limited to a single log truck load ~~TWO LOG TRUCK LOADS, EACH~~ with a maximum of two trailers towed in tandem; or

(b) is less than 5,000 10,000 board feet (log scale) or an equivalent measure."

Section 2. Section 76-13-408, MCA, is amended to read:

"76-13-408. Fire hazard reduction agreement and bond -- bond release and penalty -- exemption. (1) Before cutting any forest product, constructing or reconstructing any road in contemplation of cutting any forest product, or conducting timber stand improvement, such as but not limited to precommercial thinning, weeding, or pruning, upon private forest lands within the state, the person conducting the work must

1 be issued an exemption certificate by the department or shall provide for the reduction or management of the
2 fire hazard to be created, except where a minimum slash hazard would exist, by entering into a fire hazard
3 reduction agreement or a master fire hazard reduction agreement with the department, providing for the full and
4 faithful compliance with all requirements under this part and the faithful reduction or management of the fire
5 hazard in the manner prescribed by law and by rules adopted under this part.

6 (2) Either the person conducting the work or the purchaser, as provided in 76-13-409(2), shall post
7 a bond to the state in a form and for an amount prescribed by the department, but the amount may not exceed
8 \$6 for each 1,000 board feet (log scale) or the equivalent if forest products other than logs are cut. Bond
9 amounts for master fire hazard reduction agreements are calculated to cover the potential cost to the
10 department for fire hazard abatement in case of default and are based on the average annual volume of
11 uncompleted abatement. Master fire hazard reduction agreement bonds are to be administered as nonsite-
12 specific umbrella bonds, for which the entire bond or any portion of the bond may be collected to pay for
13 unabated fire hazards on all sites covered by the bond. The department shall review master fire hazard
14 reduction agreement bond amounts at least annually. The bonds must be adjusted according to the volume of
15 timber harvested and the level of compliance of the bond provider.

16 (3) The agreement must provide that:

17 (a) all fire hazard reduction or management work comprising nonburning methods and
18 preparations for burning must be completed within 18 months of commencement of cutting in the area covered
19 by the agreement; and

20 (b) all burning work must be completed as specified in the agreement and in compliance with rules
21 adopted under this part.

22 (4) The bond must be released upon the issuance of the certificate of clearance. At the request of
23 the fire hazard reduction agreement holder, cash bonds for fire hazard reduction agreements exceeding
24 200,000 board feet, or the equivalent, must be partially released upon satisfactory completion of slash piling if
25 the fire hazard reduction agreement holder has a record of compliance with the provisions of 76-13-407 or this
26 section. The department may inspect the sites for which release or partial release is being requested, or it may
27 rely on the submittal of a signed affidavit provided by the person posting the bond. A person that submits a
28 fraudulent affidavit is subject to the penalty provisions of 45-7-202, may have other fire hazard reduction

1 agreements revoked, or may be denied the issuance of fire hazard reduction agreements in the future.

2 ~~(5) — If a minimum slash hazard will be created, the activity is exempt from the provisions of this part.~~

3 (5) (a) An activity that creates a minimum slash hazard requires a written exemption from the
4 department if forest products are sold. Only one written exemption may be issued for a parcel of land annually.
5 The written exemption under this subsection (5)(a) must be provided to the purchaser at the time of delivery of
6 the forest products being sold.

7 (b) An activity that creates a minimum slash hazard is exempt from the provisions of this part if no
8 forest products are sold."

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