

CHAPTER 39**(HB 79)**

AN ACT relating to the master logger program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 149.342 is amended to read as follows:

- (1) After two (2) years from July 15, 1998, no person shall conduct timber harvesting operations within the Commonwealth unless there is on the site during the timber harvesting operations at least one (1) logger in charge of the harvest who has successfully completed the Master Logger Program *or who has received a temporary master logger designation in accordance with the cabinet requirements as provided for in subsection (4) of this section.*
- (2) After successful completion of the Master Logger Program, continuing education shall be required of the loggers every three (3) years.
- (3) The cabinet shall specify the education and training requirements for the Master Logger Program as developed by the University of Kentucky, the Kentucky Forest Industries Association, and the division, shall specify the requirements for continuing education, and, may establish a basic fee for the program that bears a reasonable relationship to the cost of training.
- (4) *The cabinet shall specify requirements for a temporary master logger designation, which shall be valid for four (4) months.*
- (5) *A logger or operator who uses a temporary master logger shall notify the division prior to beginning the timber harvesting operation on which a temporary master logger is on site and in charge.*
- (6) The division shall maintain a current list of all loggers who have successfully completed the Master Logger Program and required continuing education, and shall make the list available to the public. All master loggers shall provide the cabinet with a published phone number.
- ~~(7)(5)~~ Loggers who have previously completed the Kentucky Master Logger Program are considered to be in compliance with subsection (1) of this section.
- ~~(8)(6)~~ Any logger who primarily uses mules or horses in the logging operation shall be exempt from the Master Logger Program.
- ~~(9)(7)~~ After two (2) years from July 15, 1998, all state parks shall have on staff at least one (1) employee who has completed the Master Logger Program.

Section 2. KRS 149.344 is amended to read as follows:

- (1) Two (2) years from July 15, 1998, any logger or operator engaged in the conduct of any timber harvesting operations shall use appropriate best management practices.
- (2) No logger or operator shall conduct any timber harvesting operations in a manner that is causing or will likely cause water pollution.
- (3) If the cabinet determines that a logger or operator engaged in timber harvesting operations has failed to use the appropriate best management practices or is causing water pollution, the cabinet shall give the logger or operator a written warning of the facts alleged to constitute the failure to use the best management practice or the water pollution, and a reasonable period for abatement and compliance.

- (4) If, after the time for abatement in the written warning, the cabinet determines that the logger or operator has failed to implement the appropriate best management practices or has failed to abate the water pollution, the logger or operator will be provided an opportunity for an informal conference with the district forester. After the opportunity for an informal conference, if the cabinet determines that the logger or operator has failed to implement the appropriate best management practices or has failed to abate the water pollution, the cabinet shall issue a notice of violation stating the best management practice that the logger or operator has failed to implement or the facts alleged to constitute the water pollution, and order the logger or operator to implement corrective measures within a specified period of time.
- (5) If, after the issuance of a notice of violation, the logger or operator fails to implement the best management practice or corrective measures, the cabinet shall issue a special order mandating the logger or operator to immediately implement the best management practice or the corrective measures. The cabinet may also order the logger or operator to cease all or a portion of the timber harvesting operation constituting the violation, and if the cabinet does so, the logger or operator shall cease all or a portion of the timber harvesting operation, until an inspection determines that the violation has been abated. At the time the special order is issued, the cabinet shall notify the logger or operator of the opportunity for an administrative hearing under KRS 149.346(2), to be held within five (5) working days of the receipt of a written request made by the logger or operator.
- (6) If the cabinet finds that any logger or operator is conducting any timber harvesting operations in violation of KRS 149.342(1) or in a manner that is causing or is likely to cause water pollution that is presenting or will likely present an imminent and substantial danger to the public health, safety, or welfare, or to the health of animals, fish, or aquatic life, or to a public water supply, or to recreational, commercial, agricultural, or industrial uses, the cabinet may issue an emergency order directing the logger or operator to immediately cease the activity and implement corrective measures within a reasonable time, and the logger or operator shall immediately cease the activity and implement corrective measures. At the time the order is issued, the cabinet shall also notify the logger or operator of the opportunity for an administrative hearing under KRS 149.346(2) to be held within five (5) working days of the receipt of a written request. The commencement of proceedings by the cabinet under subsection (3), (4), or (5) of this section shall not preclude the cabinet from issuing an emergency order under this subsection.
- (7) Notification under this section shall be by certified mail, return receipt requested, sent to the last known address of the logger or operator, or by hand delivery by the cabinet.
- (8) If the logger or operator fails or refuses to cease activity or comply with and implement the best management practices or corrective measures in a special order issued under subsection (5) of this section or fails to cease activity and implement corrective measures in an emergency order under subsection (6) of this section, unless extended by the cabinet, the logger or operator shall be deemed a bad actor and shall be subject to civil penalties under KRS 149.348 after an opportunity for a hearing under KRS 149.346. ***The cabinet shall have the authority to remove or terminate bad actor designations from loggers or operators that demonstrate adherence to implementing best management practices, have paid all fines and penalties imposed by the cabinet, and have completed corrective action on sites with violations.***

- (9) *The cabinet may promulgate administrative regulations to establish rules and procedures to remove or terminate the bad actor designation from a logger or operator that was previously designated a bad actor under subsection (8) of this section.*

Approved March 8, 2005.