

NATURAL RESOURCES CODE

TITLE 6. TIMBER

CHAPTER 152. FOREST PEST CONTROL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 152.001. POLICY. It is the public policy of the State of Texas to mitigate and control pests threatening forest land in this state in order to protect associated ecological resources, enhance the health and maintenance of forests, promote stability of forest-using industries, ensure public safety, and conserve the ecosystem values of the forest.

Acts 1977, 65th Leg., p. 2647, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 859 (H.B. 2567), Sec. 1, eff. September 1, 2017.

Sec. 152.002. PUBLIC NUISANCE. Forest pests are declared to be a public nuisance.

Acts 1977, 65th Leg., p. 2647, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 152.003. DEFINITIONS. In this chapter:

(1) "Service" means the Texas A&M Forest Service.

(2) "Forest pests" means native insects and diseases, nonnative invasive insects and diseases, and noxious and invasive plants included on a list under Section 71.151, Agriculture Code, that are harmful, injurious, or destructive to forests or trees and whose damage, if uncontrolled, is of considerable economic and environmental importance.

(3) "Forest land" means land with at least 10 percent cover by live trees of any size, including land that formerly had that amount of tree cover and will be naturally or artificially regenerated, but does not include land within the incorporated limits of a village, town, or city.

(4) "Forest" means the standing trees on forest land.

(5) "Control" means prevent, retard, suppress, eradicate, or destroy.

(6) "Infestation" means actual infestation or infection at conditions beyond normal proportion causing loss to forests.

(7) "Landowner" and "owner" mean a person who owns forest land or has forest land under the person's direction irrespective of ownership.

(8) "Forest owner" means a person who owns the standing trees on forest land, either by a present right or by a future right under the terms of a valid existing contract.

(9) Repealed by Acts 2017, 85th Leg., R.S., Ch. 859 (H.B. 2567), Sec. 17, eff. September 1, 2017.

Acts 1977, 65th Leg., p. 2647, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 859 (H.B. 2567), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 859 (H.B. 2567), Sec. 17, eff. September 1, 2017.

#### SUBCHAPTER B. POWERS AND DUTIES OF TEXAS A&M FOREST SERVICE

Sec. 152.011. IN GENERAL. The Texas Forest Service shall administer the provisions of this chapter and make all relevant determinations.

Acts 1977, 65th Leg., p. 2648, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 152.012. SURVEYS AND INVESTIGATIONS. (a) The service shall make surveys and investigations to determine the existence of infestations of forest pests and means practical for their control by landowners.

(b) Duly delegated representatives of the service may enter private land and public land, including that held by the United States if permission is obtained, for the purpose of conducting surveys and investigations.

(c) All the service's information shall be available to all interested landowners.

Acts 1977, 65th Leg., p. 2648, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 152.013. DETERMINATION OF AREA CONTROL MEASURES. If the service finds an infestation existent or threatened in the state, it shall determine:

- (1) when control measures are needed;
- (2) the nature of the control measures;
- (3) availability of control measures; and
- (4) the techniques by which the control measures shall be applied.

Acts 1977, 65th Leg., p. 2648, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 152.014. NOTICE OF FINDING OF INFESTATION. After determining that an infestation exists, the service shall give notice of the fact by:

- (1) placing a notice in a newspaper or newspapers in the county or counties in which any infested land is located, or, if there is no newspaper in the county, placing a notice in a newspaper or newspapers with general circulation in the county or counties in which any infested land is located, stating its findings and setting a time and place for a hearing on the need for the control of the pest, to be held not less than 10 days from the date of the notice;

- (2) mailing copies of the notice to owners of forest land known to the service to have holdings in the affected area; and

- (3) arranging for publicity on the subject by all news media serving the affected area.

Acts 1977, 65th Leg., p. 2648, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 152.015. HEARING. At the hearing, the agent of the service who presides shall:

- (1) describe the conditions that have been found;
- (2) explain the measures needed to control the pest infestation;
- (3) hear all suggestions and protests; and
- (4) record the proceedings.

Acts 1977, 65th Leg., p. 2648, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 152.016. PROCEDURES FOR CONTROL. As soon as practicable after the hearing, the service shall promulgate procedures to be followed for the control of the infestation and shall publish a copy in a newspaper circulated in the affected area in the same manner as publication of preliminary notice.

Acts 1977, 65th Leg., p. 2649, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 859 (H.B. 2567), Sec. 4, eff. September 1, 2017.

Sec. 152.017. SPECIFIC CONTROL MEASURES. If the provisions of Sections 152.013 through 152.016 of this code have not been applied and control measures are needed to check the spread of the forest pests on forest land owned or controlled by any person, written notice, signed by a duly authorized representative of the service whose mailing address is shown on the notice, shall be given to the person owning or controlling the forest land.

Acts 1977, 65th Leg., p. 2649, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 152.018. NOTICE TO SPECIFIC LANDOWNER. (a) The notice required by Section 152.017 shall inform the landowner of:

- (1) the facts found to exist;
  - (2) the landowner's responsibilities for the control measures;
  - (3) the control technique recommended;
  - (4) the law under which control must be accomplished;
- and

(5) the authority of the service in the event the landowner takes no action toward controlling the pest.

(b) The notice may be given by:

(1) personal delivery to the landowner or the person having control of the forest land;

(2) registered or certified mail directed to the landowner or person having control of the forest land at that person's last known address; or

(3) if the identity or address of the landowner or person having control of the forest land is unknown:

(A) publication in one issue of a newspaper of general circulation in the county in which the land is located; or

(B) posting notice on the county's Internet website or on a bulletin board at a place convenient to the public in the county courthouse for the county in which the land is located.

(c) A published or posted notice under Subsection (b) must include the information specified in Subsection (a), state the name of the owner, if known, and briefly describe the land to which the notice applies.

(d) No other notice is necessary under the provisions of this chapter.

Acts 1977, 65th Leg., p. 2649, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 859 (H.B. [2567](#)), Sec. 5, eff. September 1, 2017.

Sec. 152.019. NOTICE TO FOREST OWNER. If the landowner has notified the service of a forest owner under Section [152.064](#), the service shall furnish the same information to the forest owner that it is required by this chapter to give to the landowner.

Acts 1977, 65th Leg., p. 2649, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 859 (H.B. [2567](#)), Sec. 6, eff. September 1, 2017.

Sec. 152.020. SUPERVISION. (a) A landowner shall inform the service of measures taken by the landowner to control the infestation and the results of those measures.

(b) The service may change its prescribed procedures as conditions or new information may require.

(c) On request, the service shall certify when all reasonably practicable measures to be done by the landowner, pursuant to its prescribed procedures, have been completed.

Acts 1977, 65th Leg., p. 2649, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 859 (H.B. 2567), Sec. 7, eff. September 1, 2017.

Sec. 152.021. CONTROL MEASURES APPLIED BY SERVICE. If the landowner or another person fails to apply the pest control measures prescribed by the service not later than the 10th day after the date notice is given under Section 152.014 or 152.018, the service may contact the landowner to offer further assistance or may enter the land and have the forest pests controlled.

Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 859 (H.B. 2567), Sec. 8, eff. September 1, 2017.

Sec. 152.022. EXPENSE OF CONTROL MEASURES TAKEN BY SERVICE.

(a) The landowner shall pay all charges and expenses of control measures taken by the service.

(b) The service shall charge amounts consistent with current commercial rates for control measures taken by the service.

Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 859 (H.B. 2567), Sec. 9, eff. September 1, 2017.

Sec. 152.023. CLAIM AGAINST LANDOWNER. The amount charged for control measures taken by the service constitutes a legal claim against the landowner, but does not constitute a lien on any land owned by the landowner.

Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 859 (H.B. 2567), Sec. 10, eff. September 1, 2017.

Sec. 152.024. SUIT. The attorney general may bring suit on behalf of the service in the county in which the infestation occurred to recover the claim against the landowner, together with all costs incurred in the suit.

Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 152.025. LANDOWNER REIMBURSEMENT. (a) If the landowner has notified the service of a forest owner under Section 152.064, the landowner is entitled to reasonable reimbursement from the forest owner for amounts:

(1) spent by the landowner for pest control measures under Section 152.062; or

(2) paid on a legal claim under Sections 152.022 through 152.024.

(b) The amount of reimbursement paid by a forest owner under Subsection (a) shall be proportional to the interest owned in the forest by the forest owner.

Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 859 (H.B. 2567), Sec. 11, eff. September 1, 2017.

Sec. 152.026. COOPERATIVE AGREEMENTS. The service may enter into cooperative agreements with private landowners or forest

owners, the federal government, or other public or private agencies to accomplish the control of forest pests.

Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

#### SUBCHAPTER C. POWERS AND DUTIES OF THE LANDOWNER

Sec. 152.061. GENERAL DUTY OF LANDOWNER. Each owner of forest land shall control the forest pests on land owned by the person or under the person's direction as provided in this chapter. Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 859 (H.B. [2567](#)), Sec. 12, eff. September 1, 2017.

Sec. 152.062. DUTY TO APPLY CONTROL MEASURES. Not later than the 10th day after the date notice is given under Section [152.014](#) or [152.018](#), each affected landowner shall commence diligently to take measures to control the infestation as prescribed and continue this activity with all practical expedition and efficiency under the direction of the service.

Acts 1977, 65th Leg., p. 2650, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 859 (H.B. [2567](#)), Sec. 13, eff. September 1, 2017.

Sec. 152.063. REPORTS AND CONSULTATION WITH SERVICE.  
(a) The landowner shall notify the service of the landowner's actions and the result of those actions.

(b) The landowner may report to and consult with a representative of the service as often as necessary.

Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 859 (H.B. [2567](#)), Sec. 14, eff.



September 1, 2017.

Sec. 152.064. NOTIFYING SERVICE OF FOREST OWNER. If all or part of the standing trees are owned by someone other than the landowner, either by a present right or by a future right under the terms of a valid existing contract, the landowner shall notify the service of that fact and furnish the name and address of each forest owner not later than the 10th day after the date the landowner receives notice from the service under Section [152.014](#) or [152.018](#). Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 859 (H.B. [2567](#)), Sec. 15, eff. September 1, 2017.

#### SUBCHAPTER D. JUDICIAL REVIEW

Sec. 152.101. JUDICIAL REVIEW OF SERVICE NOTICE. A landowner or person having control of forest land who is aggrieved by the notice given by the service is entitled to seek relief but only if the proceedings to obtain the relief are initiated within 10 days from the time notice is given, exclusive of the date the notice is given.

Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 152.102. VENUE. The proceeding to obtain relief shall be in the district court of the county in which the land is located. Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 152.103. CONTROL MEASURES PENDING LITIGATION. The service shall not proceed with any control measures while the litigation is pending unless permission to do so is given by the court on a showing of probable harm due to a delay in using the control measures.

Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, Sec. 1, eff. Sept. 1,

1977.

Sec. 152.105. INJUNCTIVE RELIEF FOR LANDOWNER. If the final judgment in an action seeking relief from a notice is in favor of the landowner, the landowner may be entitled to injunctive relief against the use of any control measures on the landowner's forest land by the service until a time determined by the court.

Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 859 (H.B. [2567](#)), Sec. 16, eff. September 1, 2017.

Sec. 152.106. NOTICE FINAL. If the final judgment is against the landowner, or if the landowner fails to seek relief in the district court of the county in which the land is located, the notice from the service is final, and the service shall summarily take the measures necessary to control the infestation.

Acts 1977, 65th Leg., p. 2651, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.