



# Water Typing System Rule-Making Update

May 9, 2018

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# Status of Water Typing Rule-Making Products

The Board started the rulemaking process to revise, update and make permanent a water typing system rule through directing staff to file a CR-101 in November 2016.

This was in response to the January, 2013 concerns about continuing the electrofishing practices under the interim water typing system rule brought to Policy by the federal services, WDFW, and the Conservation Caucus. In August 2015, the Board directed Policy to develop a methodology to locate stream break points on the ground, minimize electrofishing, improve water typing maps on the ground, make the methodology as accurate as possible, balance the risk of water typing errors, and consider the needs of small forest landowners in developing the water typing approach.



# Water Typing Rule-Making Status

The Board has, through a series of motions, initiated the preparation of a draft Water Typing System rule :

- November 9, 2016 directing staff “to prepare draft rule language and prepare board manual 23, as necessary, in consultation with stakeholders, to be presented to the Board” . . . *however* . . . “Until the Board receives recommendations from Policy. . . the staff will not move the rule making forward to a CR-102.”
- May 10, 2017 accepted “the Policy . . . recommendations on existing approved WTMF break points . . . FHAM . . . and Off-Channel Habitat”



# Water Typing Rule-Making Status

- February 14, 2018 accepting “the following PHB options to be included in the draft rule proposal and accompanying analyses:
  1. No action – existing rule language;
  2. UCUT Proposal as amended during board discussion at 2/14/2018 meeting;
  3. Western Tribes Proposal as presented at 2/14/2018 meeting; and
  4. Landowner’s Proposal, as amended during board discussion at 2/14/2018 meeting” andDirecting “staff in consultation with stakeholders to incorporate the above PHB options into rule language, guidance and required analyses (CBA, SBEIS and SEPA) to accompany the draft water typing system rule.”



# Water Typing Rule-Making Status

Staff has initiated the preparation of Components of the Rule Packet:

- Draft rule: Staff prepared a draft rule for stakeholder review. Two stakeholder meetings have been held, additional meetings will be scheduled. Completion of draft rule by 6/29/18.
- Draft guidance: Staff has convened 5 stakeholder meetings and draft FHAM, electrofishing, and OCH guidance has been prepared. Staff has scheduled 2 field days to test on-the-ground how to locate PHBs and to apply FHAM. Completion of draft guidance by 6/29/18.
- CBA/SBEIS: Staff has assembled an economist panel to address the elements to consider and analyses methods to use in the preparation of the CBA/SBEIS. Draft analyses will be made available for stakeholder review.
- SEPA: Staff will initiate when comparison analysis of PHB options is complete.



# Water Typing Rule-Making Status

## Cost-Benefit Analysis and SBEIS:

- Analysis of data (confidence, time to gain confidence)
  - Invoke stakeholder process
  - EOF (using WTMF- mining data, all ecoregions including coastal)
  - Statewide analysis
  - Anadromous floor
- Convene Economist Panel
  - Analytical model
  - Key assumptions of the model (costs to landowners, costs to labor, benefits to the ecosystem including fish, simulation, discount rates, stumpage prices, rotation ages, differences between E WA and W WA)



# Questions?





# Water Typing System Rule-Making Next Steps

Overall status of:

- Draft rule
- Draft board manual guidance
- Validation Pilot study
- CBA/SBEIS
- SEPA

Staff recommends the process be slowed down to assure full stakeholder involvement and a transparent process is applied; the Board has the benefits from Pilot study; additional time is given for field review of FHAM and PHB guidance; and the preliminary CBA/SBEIS is fully vetted.



# Staff Recommendations

1. Bring Water Typing System rulemaking package to the Board at the May 2019 meeting
2. Approve and fund the Validation Study Pilot with a report to be delivered to the Board at the November 2018 meeting
3. Present fully scoped Validation study to the Board at the August 2018 meeting after stakeholder comments are addressed and the study goes through a second ISPR review



# May 2019 Meeting

## At the May 2019 meeting:

- Consider rule proposal which will include analyses for each set of Board approved potential PHB criteria options

Upon Board approval, a **CR-102** is filed with Office of the Code Reviser and **rule making hearings** will be scheduled

In preparation for the August 2019 meeting:

- **Concise Explanatory Statement** is prepared to address comments. May result in change to rule and/or analyses
- **LTA analysis** is completed; and
- **Rule Implementation Plan** is completed



# August 2019 Meeting

## At your August 2019 meeting:

- Final rule proposal, draft CES, final CBA/SBEIS, & LTA Report are considered

## Upon your rule adoption:

- **CR-103 Rule Making Order** is filed with OCR
- **Concise Explanatory Statement** is finalized and distributed to commenters

## Rule becomes effective:

- **31 days** after filing; or
- **a later date** if specified by the Board



# Potential Motions

To meet an August 2019 Board rule adoption timeline, staff recommends the Board take the following actions:

1. Approve the Validation Pilot study to be completed in the summer/fall of 2018 with a report to the Board at the November 14, 2018 meeting.
2. Amend the water typing system rulemaking timeline to allocate the time needed to complete rulemaking materials for the Boards' May 9, 2019 meeting.
3. Request the AMPA to present fully scoped Validation Study to the Board for approval at the August 2018.



# Questions?

