

# 12. Tribal Relations

## 12.1 Introduction

Under the authority of the Forest Practices Act, chapter 76.09 RCW, the Forest Practices Board’s rules promote cooperative relationships and agreements with Indian tribes ([RCW 76.09.010](#), [\(WAC 222-12-010\)](#)), and direct DNR Forest Practices staff to consult and cooperate with affected Indian tribes when developing and implementing many parts of the Forest Practices Program. These rules define “*affected Indian tribe*” as “*any federally recognized Indian tribe that requests in writing information from the department on forest practices applications and notification filed on specified areas*” ([\(WAC 222-16-010\)](#)).

The federally recognized Indian tribes in Washington State are key cooperators in the Forest Practices Program. Because of the sovereign status of these tribal governments, the relationship between DNR and the tribes is government-to-government. The [Commissioner’s Order on Tribal Relations](#) serves as the department’s policy on tribal relations.

Tribes in Washington—as well as some tribes in Oregon and Idaho—participate in the Forest Practices Program to varying degrees. Tribes are members of the Adaptive Management Program’s committees, Forests and Fish Policy Committee and Cooperative Monitoring, Evaluation, and Research Committee, the Board’s Timber/Fish/Wildlife Cultural Resources Roundtable (formerly “Committee”; see 12.3 below), and DNR’s Small Forest Landowner Advisory Committee. Additionally, tribal representatives work with staff from DNR’s Forest Practices Program and other agencies and organizations to draft Forest Practices Rules and Board Manual guidelines, review Forest Practices Applications, Notifications, and Alternate Plans, provide technical onsite expertise in DNR’s interdisciplinary team reviews, and complete water and wetland typing.

This chapter provides information on two areas of forest practices work specific to tribal relations. First, section 12.2 provides an update on the rule required forest landowner-tribe meetings and process improvements regarding implementing and tracking. Second, section 12.3 provides an update on the work being accomplished by Timber/Fish/Wildlife Cultural Resources Roundtable.

## 12.2 Landowner/Tribal Meetings and WAC 222-20-120 Update

One of the reporting elements in the *Forest Practices HCP* is the landowner-tribe meetings required by WAC 222-20-120 when a forest practice activity involves a cultural resource, and the process improvements being made by the Forest Practices Program to more consistently implement this rule. See Administrative and Regulatory Updates in [Table 1.1 FPHCP Reporting Elements](#) (Chapter 1. Introduction, page 9). The Forest Practices Board’s definition of *cultural resources* is “*archaeological and historic sites and artifacts, and traditional religious, ceremonial and social uses and activities of affected Indian tribes.*” ([\(WAC 222-16-010\)](#)).

In February 2012, the Board adopted amendments to [WAC 222-20-120](#) (see Appendix #4). These amendments were consensus recommendations from the Timber/Fish/Wildlife Cultural Resources Roundtable designed to accomplish the following:

- In the rule title, call attention to the fact that the rule includes requirements for applications that involve cultural resources.
- Clearly state that DNR is to notify affected Indian Tribes of proposed forest practices based on the tribe's designated geographic areas of interest, rather than only those applications that a tribe might have a concern with.
- Resolve ongoing issues with the requirement that the landowner and the Tribe(s) "shall meet" when the forest practices involves a cultural resource.
- Remove the requirement that the tribe(s) must determine whether a landowner-Tribe agreed to plan will or will not be sent to the Department of Archaeology and Historic Preservation.

The main issue with the rule was the landowner-tribe meeting requirement. When an application involved a cultural resource, the landowner and the affected Indian Tribe(s) were required to meet with the objective of agreeing on a plan to protect the cultural resource. Therefore, the rule required the Tribe to meet with the landowner even if the Tribe had no concern about the proposed forest practices. The result of not meeting was a disapproved application. The amendments to the rule specify the meeting is "at the Tribe's discretion" and provide two new options to comply with the meeting requirement:

- a. The Tribe verifies they declined the meeting (new subsection (3)(b));
- b. The landowner documents good faith, but unsuccessful, attempts to meet with the Tribe(s) (new subsection (3)(c)).

None of the rule amendments modified how the Forest Practices Program notifies an affected Indian Tribe of the applications and notifications the Tribe is interested in, that is via the Forest Practices Application Review System (FPARS). FPARS is an internet-based review and permitting system for Washington's Forest Practices permits. A Tribe simply signs up by completing an FPARS Reviewer Profile, and then automatically receives all applications and notifications that meet the parameters of the Tribe's Reviewer Profile(s).

In anticipation of the new rule's emphasis on Tribes' geographic areas of interest and cultural resources contacts, DNR initiated communication with the Tribes. In December 2011, the department sent a letter (see Appendix #5) to each Tribal Chair/Council of the 29 federally recognized Tribes in Washington, two federally recognized tribes in Oregon, three federally recognized Tribes in Idaho, and five tribal organizations in Washington active in forest practices issues. The goal of the letter was to:

- Confirm the tribe's/organization's preferred contact(s) for Forest Practices Board rule makings.

- Confirm the tribe's/organization's geographic areas of interest for receiving proposed applications and notifications via FPARS.
- Request the tribe/organization identify to DNR their preferred contact(s) when a forest practice involves a cultural resource.

The Forest Practices Program followed-up with each Tribe's and organization's FPARS contact of record. Many Tribes provided updated contact information, including designating a primary and a backup contact for cultural resources issues. This updated information was input in FPARS. Currently, all but one of the federally recognized tribes in Washington has chosen to review Forest Practices Applications and Notifications.

The Forest Practices Program also expanded the cultural resources related information in its Forest Practices Risk Assessment Tool (FPRAT). The Forest Practices Risk Assessment Tool is the GIS-based interactive mapping and reporting tool that allows Forest Practices staff to see the geographic relationships between environmental features and the location of proposed forest practices. Now, in addition to the cultural resources site data from the Department of Archaeology and Historic Preservation, Forest Practices staff also reviews the following map layers when classifying proposed forest practices:

- Historical Map Index 1893-1950 (historical US Geological Service and Army Mapping Service maps for Washington State);
- Government Land Office (GLO) Maps (historical maps);
- Tribal Cultural Resources Contacts (each tribe's/organization's designated geographic area of interest for cultural resources and their cultural resources contact).

During this reporting period (July 1, 2011 to June 30, 2012) there were 57 Forest Practices Applications that required a landowner/tribe meeting, and all of these meetings took place.

## **12.3 Update on Timber/Fish/Wildlife Cultural Resources Roundtable**

### **Background**

The Timber/Fish/Wildlife Cultural Resources Roundtable (Roundtable) originated as the Timber/Fish/Wildlife Committee of the 1987 Timber/Fish/Wildlife collaboration, and has since been active in various cultural resources endeavors. In May 2011, the Forest Practices Board formally accepted the [Roundtable's charter](#), which formally changed the committee's name to Timber/Fish/Wildlife Cultural Resources Roundtable.

The Roundtable serves the Board by providing insight on cultural resources issues affecting forest practices, providing consensus rule making recommendations for the Board's consideration, and as required by [WAC 222-08-160](#), annually reporting on behalf of the department on how implementation of the Cultural Resources Protection and Management Plan is working. Accordingly, the Roundtable now is on the [Board's website](#). Webpage materials currently include the charter, monthly agendas and meeting notes, and the Cultural Resources Protection and Management Plan.

Today's Roundtable includes active participation by tribal representatives, especially Puyallup Tribe of Indians, Confederated Tribes and Bands of the Yakama Nation, Suquamish Tribe, Quinault Indian Tribe, Cowlitz Indian Tribe, and Jamestown S'Klallam Tribe, forest landowners representing and members of Washington Forest Protection Association (WFPA), and state agency representatives from DNR Forest Practices, DNR Forest Resources and Conservation, and the Department of Archaeology and Historic Preservation (DAHP). Other interested tribes and organizations, including the Washington Farm Forestry Association (WFFA), are kept informed of the Roundtable's work through monthly meeting agendas and notes sent via e-mail. Currently a total of 25 tribal representatives, 11 landowner representatives, and 10 state agency representatives have requested these ongoing mailings.

### **Cultural Resources Protection and Management Plan**

In 2001, the Forest Practices Board asked the Roundtable (then Committee) to collaboratively develop a multi-caucus proposal to address the two cultural resources commitments in the [Forests and Fish Report](#). Appendix G and Appendix O of the report specifically made the commitment to 1) cooperatively develop a watershed analysis cultural resources module and 2) complete a cultural resources plan to enhance cooperative relationships between landowners and Tribes.

In 2003, the Board accepted the Roundtable's (then Committee's) consensus [Cultural Resources Protection and Management Plan](#) as fulfillment of both these *Forests and Fish Report* commitments. This is because its appendices include a watershed analysis cultural resources module and rules to implement the module. In May 2005, after completing the rule making process, the Board formally approved the watershed analysis cultural resources module for inclusion in Board Manual Section 11, *Standard Methodology for Conducting Watershed Analysis* as [Appendix J](#), and adopted the rules in [chapter 222-22 WAC](#) implementing the module.

The Forest Practices HCP (Washington DNR, 2005) incorporates the *Cultural Resources Protection and Management Plan* as [Appendix I](#).

The *Cultural Resources Protection and Management Plan* is open to updates and changes to reflect progress, completion of tasks, and changes in priorities and direction of the plan. Therefore, updates are added occasionally by the Roundtable. The last update was October 2008.

### **Ongoing and Current Work**

The Roundtable and the Forest Practices Program continue to implement commitments in the *Cultural Resources Protection and Management Plan*. Resolving other cultural resources issues related to forest practices also is ongoing work by the Roundtable and the program.

The three implementation commitments specific to the Forest Practices Program relate to:

- notice to Tribes of proposed applications and notifications,
- landowner-Tribe meetings required by WAC 222-20-120, and

- classification of applications and notifications involving cultural resources.

As discussed in section 12.2, the Forest Practices Program provides automatic and ongoing notice to tribes of applications and notifications via the Forest Practices Application Review System (FPARS), and has provided updated program guidance on implementing amended WAC 222-20-120. Regarding classifying applications and notifications involving cultural resources, the Forest Practices program has added new links to historical maps and tribe's/organization's contact information in its Forest Practices Risk Assessment Tools (FPRAT). The Program also continues to assist the Department of Archaeology and Historic Preservation (DAHP) in updating their archaeological and historic sites database. This cultural resources data is used by the Forest Practices Program to appropriately classify Forest Practices Applications and Notifications involving cultural resources. Specific funding is provided to the Department of Archaeology and Historic Preservation through an interagency agreement with DNR. Funding for fiscal year 2011-2012 was \$34,053, which provides a half time position at DAHP. The Roundtable continues to advocate for a full time position at the Department of Archaeology and Historic Preservation.

For fiscal year 2011-2012, the Roundtable's work priorities were as follows:

- On behalf of DNR, the Roundtable reported to the Forest Practices Board on implementation of the *Cultural Resources Protection and Management Plan*. This annual report provides the Board with continued review of how the plan's voluntary processes are working, per WAC 222-08-160 (1). See the 2011 report at [August 9, 2011 Board Meeting](#) (in 2011 August Meeting Materials, scroll to the report). These reports are in August so the Board can use this information for their November planning meetings.
- As a part of staff reports at regular Board meetings, the Roundtable provided its quarterly reports in the form of its work plan titled "Action Items".
- The Roundtable completed its work on clarifying language for WAC 222-20-120. The Board unanimously adopted the Roundtable's consensus language on February 14, 2012 and requested annual reports on implementation of the rule starting May 2013.
- The Roundtable continued its work on developing cultural resources guidance documents and tools—as agreed to in the *Cultural Resources Protection and Management Plan*. Utilizing information gathered at the 2010 Roundtable workshop and subsequent project scoping, the Roundtable is drafting a number of guidance documents on implementing the plan as well as other helpful cultural resources information. Most recently, a cultural resources training session was video-taped as one of the guidance tools.
- The Roundtable's cultural resources educational efforts for the state's small forest landowners—also a commitment in the *Cultural Resources Protection and Management Plan*—continues through the assistance of the Washington State University Extension Service. Numerous workshops continue to be conducted around the state. Some workshops draw a hundred or more attendees.
- The Roundtable worked on developing its logo by commissioning a Puyallup Tribe artist. The artist will use the existing TFW logo and create a tribal designed moon/sun.

- In preparation for its next annual report at the August 2012 Board meeting, the Roundtable wrote and distributed a survey regarding use of the principles in the Cultural Resources Protection and Management Plan. Forest landowners, forest land managers, and tribes active in forest practices were sent the survey via SurveyMonkey. The Roundtable is compiling survey results.