

2. Forest Practices Board

2.1 Introduction

The Forest Practices Board (Board) activities during the July 2011- June 2012 reporting period are explained in this section. The Board adopted rules related to Road Maintenance and Abandonment Plans, the notice to affected Indian tribes regarding forest practices, critical habitats of threatened and endangered species, and the Forestry Riparian Easement Program. The Board also approved revisions to Board Manual Section 3 *Guidelines for Forest Roads*.

2.2 Forest Practices Board Overview

The Board sets the standards that are the basis for the Forest Practices Program. The state's Forest Practices Act established the Board in 1974 as an independent state agency. It directs the Board to adopt rules for forest practices on non-federal and non-tribal forestlands that will protect public resources while maintaining a viable forest products industry. "Public resources" are defined as water, fish and wildlife, and capital improvements of the state or its political subdivisions.

The Board consists of 13 members that include the Commissioner of Public Lands, or the Commissioner's designee, four additional state agency directors or their designees, and eight members appointed by the governor. The represented agencies are the state Departments of Natural Resources (DNR), Commerce, Ecology, Agriculture, and Fish and Wildlife (WDFW). The governor-appointed members include a member representing a timber products union, a forest landowner who actively manages his or her land, an independent logging contractor, an elected county commissioner or council member, and four general public members whose affiliations are not specified in the Forest Practices Act. The membership of the Board as of June 30, 2012 was:

- Bridget Moran, Commissioner of Public Lands Designee, Chair
- Mark Calhoon, Department of Commerce
- Tom Laurie, Department of Ecology
- Jaclyn Ford, Department of Agriculture
- David Whipple, Department of Fish and Wildlife
- Dave Somers, Snohomish County Commissioner
- Bill Little, timber products union representative
- Bob Guenther, general public member and small forest landowner
- Carmen Smith, general public member and independent logging contractor
- Paula Swedeen, general public member
- Norm Schaaf, general public member
- David Herrera, general public member
- Phil Davis, general public member

In addition to adopting rules, the Board approves changes to the Forest Practices Board Manual, an advisory technical supplement to the rules. The manual guides field practitioners and DNR regulatory staff when implementing certain rule provisions. The Forest Practices Rules, together with the Forest Practices Board Manual largely represent the state's protection measures for public resources related to forest lands.

The Board also directs the Adaptive Management Program. This program provides science-based recommendations and technical information to assist the Board in determining if and when it is necessary or advisable to adjust rules and guidance in order to achieve established goals and objectives. The Board empowers four entities to participate in the Adaptive Management Program:

1. Cooperative Monitoring, Evaluation and Research (CMER) Committee
2. Forests and Fish Policy Committee
3. Adaptive Management Program Administrator
4. Scientific Review Committee (SRC)

The Cooperative Monitoring, Evaluation and Research Committee represent the science component of the program and oversees research and monitoring by DNR and other public and private entities.

The Forests and Fish Policy Committee considers CMER Committee research and monitoring findings and makes recommendations to the Board related to Forest Practices Rule amendments and guidance changes. Participation in both the CMER Committee and the Forests and Fish Policy Committee is open to representatives of environmental and forest landowner interests, tribal governments, county governments, and state and federal agencies.

The Adaptive Management Program Administrator is a full-time employee of DNR and is responsible for overseeing the program, supporting the CMER Committee and reporting to the Forests and Fish Policy Committee and the Board.

The Scientific Review Committee performs independent peer review of some CMER work to ensure it is scientifically sound and technically reliable. The Scientific Review Committee may also review non-CMER work, though it does not do so frequently.

2.3 Forest Practices Board Rule Making Activity (July 1, 2011 – June 30, 2012)

Road Maintenance and Abandonment Plans

On August 11, 2011, the Board adopted changes to the rules related to Road Maintenance and Abandonment Plans (RMAPs)—WACs 222-24-050 and 222-24-051. The change gave forest landowners the opportunity to extend the performance period for their projects implementing RMAPs for up to five years, or until October 31, 2021. The Board's rule change followed a

recommendation from the Forests and Fish Policy Committee that included a comprehensive set of recommended improvements to the RMAP program including:

- Improved RMAPs data collection and processes to facilitate stakeholder and DNR review of plans, schedules and accomplishments, leading to improved planning and communication between landowners and DNR,
- The commitment by all participants in the Forest Practices Adaptive Management Program caucuses to seek additional funding to accelerate fish passage improvements on small forest landowner land (via the Family Forest Fish Passage Program) and to help fund barrier removals on county roads.

Concurrent with the rule adoption, the Board approved an amended Board Manual Section 3 *Guidelines for Forest Roads*, which reflected the changes to the RMAPs rules and included changes to RMAPs review and reporting. See section 2.5 in this report, “Board Manual Section 3 *Guidelines for Forest Roads*.”

Notice of Forest Practices to Affected Indian Tribes

The Board amended WAC 222-20-120 *Notice of forest practices to affected Indian tribes* on February 14, 2012. The rule established an improved process for forest landowners and affected Indian tribes to meet the rule’s landowner-tribe meeting requirement when landowners’ proposed forest practices may intersect with cultural resources. The rule title also was amended to *Notice of forest practices that may contain cultural resources to affected Indian tribes* to call attention to the fact that the rule includes requirements for applications that involve cultural resources. This was the result of a Timber/Fish/Wildlife (TFW) Cultural Resources Roundtable recommendation to the Board in May 2011.

At the same time, the Board made a correction to a rule reference in WAC 222-30-021(1)(c)(ii)(VII), the ‘clumping strategy’ subsection of *Western Washington Riparian Management Zones*.

Critical Habitats of Threatened and Endangered Species

On February 14, 2012, the Board eliminated the critical habitat for bald eagle (*Haliaeetus leucocephalus*) and the peregrine falcon (*Falco peregrinus*) from WAC 222-16-080 *Critical Habitats (state) of threatened and endangered species*. This rule lists forest-dependent state threatened and endangered species habitats and specific forest practices that are designated as Class IV-special. The reason for removing these species is that they are no longer listed as threatened or endangered under federal or state laws. However, they continue to receive protection under federal laws: the Bald and Golden Eagle Protection Act and the Migratory Bird Act.

At the same time, the Board also updated the reference to the western pond turtle (*Clemmys marmorata*) to its newly recognized common and scientific names: Pacific pond turtle (*Actinemys marmorata*).

Forestry Riparian Easement Program

On May 8, 2012, the Board adopted rules to carry out 2011 legislation (Engrossed Substitute House Bill 1509) that made changes to the Forestry Riparian Easement Program. Among the rule changes are:

- eliminating non-profit landowners from program eligibility;
- modifying landowner qualifications – at the time compensation is offered for a forest riparian easement, the landowner must be a small landowner; and
- determining the value of the easement based on timber values on the date the complete Forestry Riparian Easement Program application is received.

Land Use Conversions and Forest Practices Applications

The Board is considering rulemaking to integrate recent changes to chapter 76.09 RCW into chapters 222-08, 222-12, 222-16, and 222-20 WAC. This will include:

- Eliminating all references to “lands platted after January 1, 1960.” Proposed forest practices on these lands will not automatically be assumed conversions to a non-forestry use, and therefore will not automatically be classified Class IV-general. (House Bill 1582, [Chapter 207, Laws of 2011](#)).
- Eliminating the six-year moratorium on development when landowners have not stated their intention to convert their forest land to other uses. Replacing it with a new process that includes a “Notice of Conversion to Non-forestry Use.” (Second Substitute House Bill 5883, [Chapter 106, Laws of 2007](#)).
- Increasing the duration of a Forest Practices Application or notification from two to three years. (Second Engrossed Substitute Senate Bill 6406, [Chapter 1, Laws of 2012](#)).

In addition, this rulemaking likely will include clarifications for general purposes in WAC 222-16-050 *Classes of forest practices*, and parts of chapter 222-20 WAC *Application and notification procedures*.

At the August 14, 2012 meeting, the Board may consider draft rules to be distributed for public review, and for which DNR would conduct a public hearing. If so, rule adoption may take place on November 13, 2012.

Pilot Rule Making for Westside Type N Buffer Effectiveness Soft Rock Study

On May 8, 2012, the Board approved a pilot rule to allow for research on the effectiveness of the existing riparian management rules for non-fish-bearing streams in Western Washington. The

research is intended to answer how timber harvesting in Type N basins affects: water temperature, sediment input and storage, suspended sediment and nutrient export to downstream Type F waters, and benthic macroinvertebrate communities immediately downstream of a harvest unit.

The research could result in new rules developed through the Adaptive Management Program process (RCW 76.09.370(6) and WAC 222-12-045).

2.4 Anticipated Forest Practices Board Direction

As indicated in section 2.3, the Board is expected to continue rulemaking to integrate several pieces of recent legislation into chapters 222-08, 222-12, 222-16, and 222-20 of the WAC. In addition, the Board likely will consider actions related to forest biomass, hydraulic project approvals associated with forest practices, the northern spotted owl, and the definition of “forest land” where trees are immediately adjacent to residential structures.

Forest Biomass

In response to public sentiment during the Forest Biomass rule making process during the 2010-2011 reporting period, DNR convened a Forest Practices Biomass Harvest Work Group. This group consists of representatives of the timber and biomass industries, DNR, state and federal natural resource agencies, and the environmental community. Its goal is to develop recommendations for the Board to consider at its August 14, 2012 meeting. The recommendations will address whether additional rulemaking or guidance is needed to protect resources, beyond the protections already provided in the rules.

Hydraulic Project Approvals

SESSB 6406 ([Chapter 1, Laws of 2012](#)) directs the Board to incorporate into the Forest Practices Rules the fish protection standards from Washington Department of Fish and Wildlife (WDFW). The standards are contained in the hydraulic project statutes in title 77.55 RCW and hydraulic project approval rules under chapter 220-110 WAC. The Board’s rule making efforts will involve coordination with WDFW. By law, this rule making must be completed by December 31, 2013, but initial rule-making activities likely will take place during the 2012-2013 reporting period.

The bill also removes RCW 76.09.040 (2)(b). This RCW subsection had required the Board to submit proposed rules to the counties and WDFW for review and comment prior to initiating the rule-making process, and the Board by practice had also included affected Indian tribes.

Additionally, the bill requires the Board to develop technical guidance in the Forest Practices Board Manual by December 31, 2013. The guidance will be developed to assist with implementation of the fish protection standards in the hydraulic project approval rules, and to include best management practices and standard techniques to ensure fish protection.

Northern Spotted Owl

The Board is likely to contemplate a long-term northern spotted owl conservation strategy in the 2012-2013 reporting period. After receiving recommendations from its multi-stakeholder Northern Spotted Owl Policy Working Group during the 2009-2010 reporting period, the Board directed DNR to form a Northern Spotted Owl Implementation Team to answer how Washington can identify areas that can make strategic contributions to spotted owl recovery over time.

Throughout the 2010-2011 reporting period, the implementation team:

- Formed a northern spotted owl technical team consisting of six biologists and four ecological economists. This team is tasked with assessing the spatial and temporal allocation of conservation efforts on non-federal lands using best available science.
- Worked with the U.S. Fish and Wildlife Service to determine how its habitat modeling tools, which were used to create the proposed spotted owl critical habitat designation, may be used to inform the work of the technical team.
- Is convening a project team to help implement the Entiat pilot project. This project is designed to explore the operational and economic feasibility of thinning in overstocked stands to improve spotted owl habitat quality in eastern Washington.

During the 2012-2013 reporting period, the Board will seek input from the Northern Spotted Owl Implementation Team and consider the federal critical habitat rule for the owl (expected to be final in November 2012) to inform possible changes to Washington's critical habitat rule WAC 222-16-080(f).

Trees and Houses

As noted in previous annual reports, in 2008 the Board considered and tabled rulemaking that would exclude from the definition of "forest land" a defined area with trees immediately adjacent to residential structures. The intention was to transfer forest practices jurisdiction over tree removal in these areas from DNR to local governmental entities, but to maintain the Department of Labor and Industries' jurisdiction for public safety purposes. DNR is intending to sponsor legislation to address this issue and the Board will continue to defer rule making until after such legislation is completed.

Board Manual Updates

During the 2012-2013 reporting period, the Board also may consider updating sections of the Forest Practices Board Manual, including but not necessarily limited to:

- A new Board Manual section to assist with implementing the fish protection standards in the hydraulic project approval rules. See 2.4, Hydraulic Project Approvals.
- Section 1 *Method for Determination of Adequate Shade Requirements on Streams*
- Section 7 *Guidelines for Riparian Management Zones*

2.5 Forest Practices Board Manual

The Forest Practices Board Manual is an advisory technical supplement to the Forest Practices Rules that provides technical background and guidance for DNR staff, forest landowners and cooperating agencies and organizations when they implement certain rules.

The Forest Practices Rules direct DNR to develop Board Manual sections, each of which provides guidance for implementing a specific rule or set of rules. DNR develops and makes modifications to the manual sections in consultation with the Washington State Departments of Fish and Wildlife, Agriculture, Ecology and other affected agencies, affected tribes, and interested parties. The development or modification process typically begins with a working group that identifies key elements to be addressed, and drafts language—with DNR in the lead. During this development phase any interested party may comment on a draft. For sections that provide guidance for rules protecting aquatic resources, a final draft is presented to the Forests and Fish Policy Committee for review and approval, after which the Board considers and makes a decision as to whether it is to be included in the manual, or needs revision. At times it may be necessary to present the Board with a final product that represents agreement by a majority of the Forests and Fish Policy Committee, rather than by consensus. In these cases, DNR staff informs the Board of the lack of consensus and provides a briefing on the outstanding issues prior to the Board taking action.

Forest Practices Board Manual Activity (July 1, 2011 – June 30, 2012)

Board Manual Section 3 *Guidelines for Forest Roads*

On August 9, 2011, the Board approved changes to Board Manual Section 3, *Guidelines for Forest Roads* as follows:

- A new section was added to Part 2 to explain the review processes, reporting requirements, and work prioritization requirements.
- Clarification was made in Part 4 (in subpart 4.1) that slash—in addition to clearing debris—should be placed outside the road prism (the area consisting of the road surfaces and any cut slope and road fill).
- Guidance was improved pertaining to drainage structures, added to Part 7.

Board Manual Section 21 *Guidelines for Alternate Plans*

In the fall of 2010, Washington Farm Forestry Association, a small forest landowner advocacy group, presented to DNR and the Small Forest Landowner Advisory Committee a proposal for a new alternate plan template for riparian management. Because there was concern among most stakeholder caucuses that the proposal would not provide for riparian functions, the Forests and Fish state caucus representatives from DNR, the Department of Fish and Wildlife, and the Department of Ecology developed an alternate proposal based on low-impact methods of riparian thinning.

DNR staff presented the resulting draft template to the Board on November 8, 2011. This template combined the existing fixed-width riparian template with a light thinning of the riparian inner zone. This was intended to offer the greater community of small forest landowners the benefit of using it as an alternative to the existing fixed-width riparian alternate plan template.

The Board's motion to approve the template failed, with five Board members in support and five opposed.