

# 12. Tribal Relations

## 12.1 Introduction

Under the authority of the Forest Practices Act, chapter 76.09 RCW, the Forest Practices Board (Board) adopts rules that foster cooperative relationships and agreements with Indian tribes and direct DNR Forest Practices staff to notify and consult with affected Indian tribes when developing and implementing many parts of the Forest Practices Program ([RCW 76.09.010](#), [WAC 222-12-010](#)). 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. DNR’s Tribal Relations Manager assists the department in maintaining good communications and collaborative relationships, and building stronger working relationships, with the Tribes.

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 Timber/Fish/Wildlife Policy Committee and Cooperative Monitoring, Evaluation, and Research Committee, as well as the Board’s Timber/Fish/Wildlife Cultural Resources Roundtable (see 12.3 below) and DNR’s Small Forest Landowner Advisory Committee. Additionally, Tribal members and their representatives work with staff from DNR’s Forest Practices Program and other agencies and organizations to draft Forest Practices Rules and Board Manuals, review Forest Practices Applications, Notifications, and Alternate Plans, and provide technical expertise in DNR’s interdisciplinary team reviews and 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 conducted by the Board’s Timber/Fish/Wildlife Cultural Resources Roundtable.

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

One of the reporting elements in the *Forest Practices HCP* is the landowner-Tribe meetings required by WAC 222-20-120 *Notice of forest practices that may contain cultural resources to affected Indian tribes* 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 the Final FPHCP Administrative and Regulatory Program Updates in [Table 1.1 FPHCP Reporting Elements](#) (open the link, scroll to page 9). The Forest Practices rule 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](#))

This is the first full reporting period of implementing the Board’s 2012 amendments to [WAC 222-20-120](#) . These rule amendments, a consensus recommendation from the Board’s Timber/Fish/Wildlife Cultural Resources Roundtable, provide for clearer understanding of the required processes for implementing and complying with this rule and address tribal sovereignty issues in the following ways:

- The words “cultural resources” are in the rule title to call attention to the rule’s requirements for applications that involve cultural resources.
- DNR notice to affected Indian Tribes is based on the tribe’s designated geographic areas of interest, rather than only those applications that a tribe might have a concern with.
- The required landowner-Tribe meeting is at the Tribe(s) discretion, so the meeting is not required if the Tribe(s) has no cultural resources concern with the application.
- Complying with the meeting requirement includes options for Tribal verification they declined the meeting and landowner verification of good faith but unsuccessful attempts to meet with the Tribe(s). See new subsections (3) (b) and (c).
- The rule no longer directs Tribe(s) to determine whether the landowner-Tribe agreed to plan will or will not be sent to the Department of Archaeology and Historic Preservation.

Starting in August 2013, the Board will receive annual reviews specific to the effectiveness of their amended rule process.

Currently, all but one of the federally recognized Tribes in Washington has chosen to review Forest Practices Applications and Notifications. The department will again send a letter to each Tribal Chair/Tribal Council of the 29 federally recognized Tribes in Washington, two federally recognized Tribes in Idaho, three federally recognized Tribes in Oregon, and the five Tribal organizations in Washington active in forest practices issues. The goal of DNR’s letter is to maintain as current as possible DNR’s information on the Tribes’ and Tribal organizations’ designated geographic areas of interest for notice of proposed forest practices, cultural resources contacts for forest practices involving cultural resources, and contacts for Board rule making activities.

The Forest Practices Program’s expanded cultural resources related information in its Forest Practices Risk Assessment Tool (FPRAT) is used by Forest Practices staff to review and classify proposed forest practices. The Forest Practices Risk Assessment Tool is the GIS-based interactive mapping and reporting tool that allows staff to see the geographic relationships between environmental features and the location of proposed forest practices. Additional to the cultural resources site data from the Department of Archaeology and Historic Preservation, the expanded cultural resources related information is:

- the historical Map Index 1893-1950 (historical US Geological Service and Army Mapping Service maps for Washington State);
- the government Land Office (GLO) Maps (historical maps); and

- the Tribal Cultural Resources Contacts (each Tribe's/Tribal organization's designated geographic area of interest for cultural resources and their cultural resources contact).

During this reporting period (July 1, 2012 to June 30, 2013) there were 37 Forest Practices Applications that required a landowner/Tribe meeting and all 37 fulfilled the meeting requirement. While the meeting requirement was fulfilled in all cases, in 5 cases a meeting did not occur because the Tribe did not want a meeting or did not respond to the meeting invitation. When this happens, the meeting requirement is still considered fulfilled by forest practices rules.

## **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 Board's website includes a [Roundtable webpage](#). Webpage materials include the charter, meeting agendas and meeting notes, the Cultural Resources Protection and Management Plan, and various links to related information.

Today's Roundtable includes active participation by tribal representatives, especially Puyallup Tribe of Indians, Confederated Tribes and Bands of the Yakama Nation, 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 meeting agendas and notes sent via e-mail. Currently a total of 26 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 a living document, that 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 in this plan 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/Tribal 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 2012-2013 was \$33,706.32, 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 2012-2013, 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 evaluation of how this plan's voluntary processes are working, per WAC 222-08-160 (1), including the results of annual surveys distributed to Tribes, forest landowners, and state agency staff involved in forest practices. These annual reports are in August so the Board can utilize this information for their November planning meetings. See the 2012 report at [August 14, 2012 Board Meeting Materials](#) (in 2012 August Meeting Materials, scroll to the report).
- As a part of the staff reports the Board receives at its regular quarterly meetings, the Roundtable provided its four quarterly reports in the form of its work plan, titled "*T/F/W Cultural Resources Roundtable Action Items*".
- In unanimously adopting the Roundtable's consensus amendments to WAC 222-20-120 on February 14, 2012, the Board requested annual reviews on implementation of the amended rule. To fulfill this request, the Roundtable developed questions specific to the rule's new amendments and added those questions to its annual survey on the Cultural Resources Protection and Management Plan. Annual survey results specific to WAC 222-20-120 will be reported by the Roundtable as part of its ongoing August annual reports to the Board.
- The Roundtable continued its work on developing cultural resources guidance documents and tools—as agreed to in the *Cultural Resources Protection and Management Plan*. A number of guidance documents on implementing this plan as well as other helpful cultural resources information are nearly completed. The video-taped cultural resources training session completed last year, titled *Video Presentation: Identifying and Protecting Cultural Resources on Forestlands*, is now available on the Board's [Roundtable webpage](#) (under Related Links).
- Since DNR's Forest Practices Program is updating its FPA/N Forms and Instructions, the Roundtable started work to improve the current instructions for the cultural resources question on the FPA/N forms. A work group has been convened to develop draft amendments and present their recommendations to the Roundtable.
- 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 were conducted around the state, some drawing a hundred or more attendees.
- DAHP provided ongoing updates to the Roundtable on the Department of Ecology's rulemaking to add exemptions to the State Environmental Policy Act (SEPA) for certain types of projects, as directed by recent legislation. Roundtable interest lies in the effects of excluding these projects from assessing the potential of the proposal to affect cultural resources.

- Work continued on a Roundtable logo based on the existing TFW logo. A Puyallup Tribe artist created a spectacular design. After Roundtable discussion and permission from the artist, the Cowlitz Tribe is graciously working on the final touch.

Incentivizing cultural resources site discovery and reporting is a new Roundtable work project. Initial ideas are being discussed by DNR's State lands representative with the Squaxin Island Tribe and Yakama Nation.