

Tribal Relations

10.1 Introduction

Under the authority of the Forest Practices Act, the Board's rules, in part, promote cooperative relationships and agreements with the tribes and direct DNR Forest Practices staff to consult and cooperate with affected tribes when developing and implementing many parts of the Forest Practices program (WAC 222-12-010). The rules define "affected Indian tribe" as "any federally recognized tribe that requests in writing information from DNR on forest practices applications and notifications filed on specific areas" (WAC 222-16-010).

Washington's 29 federally recognized Indian tribes are key cooperators in the Forest Practices program. Because of the sovereign status of these tribal governments, the relationship between DNR forest practices and the tribes is government-to-government.

These 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 Forests and Fish Policy, CMER committees, the Board's TFW Cultural Resources Committee (Committee), and the 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 FPAs and notifications and alternate plans, provide technical on-site expertise in DNR's interdisciplinary team reviews, and complete water and wetland typing.

This chapter provides information on two areas related to tribal relations. The first is an update on the required forest landowner/tribal meetings reporting process. The second is an update on the TFW Cultural Resources Committee.

10.2 Landowner/Tribal Meetings and WAC 222-20-120 Update

One of the reporting elements in the FPHCP is the landowner-tribe meetings required by WAC 222-20-120 and the process improvements being made by the forest practices program to more consistently implement this rule.

The rule requires the forest practices program to notify an "affected Indian tribe" of all applications on the specific areas that have been identified by the tribe. Additionally, when an application involves a cultural resource, the rule requires the forest landowner to "meet with the affected tribe(s) with the objective of agreeing on a plan for protecting the archaeological or cultural value."

The forest practices program notifies a tribe of the applications the tribe is interested in via the Forest Practices Application Review System (FPARS). FPARS is an internet based review and permitting system for Washington's forest practices permits. The tribe simply signs up for FPARS, and then automatically receives all applications and notifications that meet the parameters of the tribe's FPARS reviewer profiles. Currently, all but a couple of the federally recognized tribes in Washington have chosen to review forest practices applications and notifications.

In 2006 and 2007, the forest practices program's audit of DNR region forest practices office procedures showed inconsistencies in documenting confirmation that the required meetings took place. To increase consistency of documentation for landowner-tribe meetings, the program is continuing its work to:

- 1) update guidance on implementing WAC 222-20-120(2) and
- 2) implement a tracking method to more consistently document that required meetings are held.

Guidance on implementing WAC 222-20-120(2), the landowner-tribe meeting requirement, is part of a broader cultural resources guidance document. This guidance will be affected by and need to be updated based upon the outcome of the Board's historic sites rule making. The rule making is scheduled to be completed in August 2008. See section 2.3. At that time, the program will finalize its cultural resources guidance then conduct training.

Two new tracking methods are being discussed to assist DNR region forest practices staff in more consistently documenting required landowner-tribe meetings; a revised Office Checklist that would have a space for documentation, including whether or not a required landowner-tribe meeting was held and a revised master log that would have a space to check when the meeting had taken place. Additionally, the regions are routinely reminded of the importance of documenting activities including landowner-tribe meetings.

10.3 Update on Timber, Fish and Wildlife Cultural Resources Committee

Background

Originating as part of the 1987 TFW organization, today's Committee includes tribal representatives (especially Puyallup, Yakama, Suquamish, Lummi, and Quinault), forest landowners representing Washington Forest Protection Association (WFPA) members and Washington Farm Forestry Association (WFFA) members, and state agency representatives from DNR-Forest Practices, DNR-State Lands, and the Department of Archaeology and Historic Preservation (DAHP). In 2001, the Forest Practices Board asked the Committee to do the staff work and the negotiations on cultural resources issues for the Board. This work included a multi-caucus proposal to address the cultural resources commitments in Appendices G and O of the Forests and Fish Report, specifically a watershed analysis cultural resources module and a cultural resources plan.

In May 2005, the Board approved and adopted the Committee's proposed cultural resources watershed analysis module and rules that implement the module. The module and the rules are appendices of the Committee's collaboratively developed Cultural Resources Protection and Management Plan (the Plan). The Plan is incorporated into the FPHCP as Appendix I. Since then, the forest practices program and the Committee have continued to implement additional commitments of the Plan.

Ongoing and Current Work

Three commitments in the Plan specific to the forest practices program relate to notice to tribes, landowner-tribe meetings, and classification of applications and notifications involving cultural resources.

First, as previously discussed in this report, the program provides automatic notice to tribes of applications and notifications of interest via FPARS. This notice is an ongoing process, and involves tribes' updates on their designated applications and notifications of interest and their staff reviewers.

Second, DNR is in the process of updating their program guidance on cultural resources rules. See section 10.2 above.

Third, the program assists the DAHP in updating their archaeological and historic sites database. This data is used by DNR to appropriately classify forest practices applications and notifications involving cultural resources according to WAC 222-16-050. The program continues to provide specific funding to DAHP through a DNR-DAHP Interagency Agreement. Funding for fiscal year 2008 (7/1/2007 – 6/30/2008) was \$34,763.50.

Additionally,

- The commitment to address the tribes' confidentiality concerns about tribal cultural resources came to fruition in the form of Senate Bill (SB) 6429 (3/17/2006). This legislation adds to the Public Records Act an exemption from disclosure of tribal cultural resources information acquired through conducting the cultural resources watershed analysis module. RCW 42.56.300 became effective July 1, 2007.
- The Cultural Resources Education Subcommittee continues to develop its cultural resources education program for small forest landowners. The forest practices program is represented on the Education Subcommittee and has funded and led research contracts. A staff member from the Washington State University Extension Service now spends 20% of their time assisting the Committee on this project.
- The Committee continues to work on the Board's historic sites rulemaking effort to address inconsistencies in the current rules. The Committee is recognized by the Board as the group of expertise on this issue. In February 2008, the Board moved this rule making into the public process. SEPA review has been conducted and three hearings were held around the state to gather oral comments from interested parties or individuals. DNR is scheduled to ask the Board for adoption of the rule at the Board's August 2008 meeting.