

10. 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 the Adaptive Management Program's Forests and Fish Policy committee and Cooperative Monitoring and Research (CMER) committees, the Board's Timber-Fish-Wildlife 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 forest practices applications and 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 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 Timber, Fish and Wildlife Cultural Resources Committee.

10.2 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 (2) 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, subsection (2) of 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 one of the federally recognized tribes in Washington have chosen to review forest practices applications and notifications.

DNR completed the following steps to initiate data collection on landowner/tribe meetings for the Forest Practices HCP annual report. These steps also help address DNR region audit findings regarding tracking of landowner/tribe meetings.

- Guidance on tracking landowner/tribal meetings was updated (Appendix J).
- DNR implemented a new tracking method in September 2008 that uses the region master log to record:
 - Which applications require a landowner/tribal meeting, and
 - Which required landowner/tribe meetings took place.

Additionally, following the Board's adoption of the new historic sites rules in August 2008 (see "Ongoing and Current Work" below), the program conducted training and provided guidance to the regions on implementing these new rules and WAC 222-20-120. The training included:

- An explanation of the board's new classification criteria for applications involving cultural resources,
- An emphasis that a meeting between the landowner and the interested tribe(s) is required for all Class IV-special applications involving a cultural resource,
- Discussion on using the Forest Practices Application/Notification Office Checklist for tracking forest practices applications that have a cultural issue,
- Discussion on using the region master log to track the required meeting data listed above.

Beginning on September 17, 2008 to June 30, 2009, the regions have recorded that five forest practices applications triggered the landowner-tribe meeting requirement. Landowners were required to meet with all the tribes that had expressed interest in the geographic area of the forest practices application, which in some instances included up to six different tribes. Two forest practices applications with the same landowner did not meet the landowner-tribe meeting requirement. In both cases, the landowner requested a meeting but was unsuccessful in soliciting a response from one of the tribes involved. The program will follow up with each region to insure that the guidance is being correctly interpreted.

10.3 Update on Timber, Fish and Wildlife Cultural Resources Committee Background

Originating as part of the 1987 Timber, Fish and Wildlife organization, today's Committee includes tribal representatives (especially Puyallup, Yakama, Suquamish, Lummi, and Quinalt), 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 (Plan). The Plan is incorporated into the Forest Practices HCP as Appendix I. Since then, the forest practices program and the Committee have continued to implement

additional commitments of the Plan, as well as resolve issues by collaboratively clarifying rule language regarding cultural resources.

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. As discussed in section 10.2, the program provides automatic and ongoing notice to tribes of applications and notifications via FPARS based on the tribe's identified areas of interest, and DNR has provided updated program guidance on WAC 222-20-120.

The program continues to assist DAHP in updating their archaeological and historic sites database. This cultural resources data is used by DNR to appropriately classify forest practices applications and notifications involving cultural resources according to WAC 222-16-050. Specific funding is provided to DAHP through a DNR-DAHP Interagency Agreement. Funding for fiscal year 2008-09 was \$34,763.50, which provides a half time position. The Committee continues to advocate for a full time position at DAHP.

Additionally,

- As required by WAC 222-08-160 Continuing review of forest practices rules - the Committee provided their annual report to the Board at its August 2008 meeting. A second report was provided in May 2009 to assist the new chair and members in understanding the Committee's purpose, work, and challenges.
- The Committee's work on the Board's historic sites rulemaking effort to address inconsistencies in the current rules came to fruition when the Board adopted the Committee's consensus rule language at the Board's August 2008 meeting. See section 2.0.
- The Committee updated the Plan to formally recognize completed projects, and is considering further amendments such as broadening the scope of recommended agreement strategies beyond Memoranda of Understanding and higher level contacts.
- The Committee is supporting a west-side pilot project by the Puyallup Tribe and Hancock Forest Management as a first test of the Cultural Resources Module in a comprehensive assessment of cultural resources in a watershed. Funding for an eastside pilot is being researched.
- The Cultural Resources Education Subcommittee continues its cultural resources educational efforts for small forest landowners with the assistance of the Washington State University Extension Service.
- The Committee is drafting clarifying language for WAC 222-20-120, which requires landowner-tribe meetings on applications that involve cultural resources. See section 10.2.