

# 10. Tribal Relations

## 10.1 Introduction

Under the authority of the Forest Practices Act (chapter 76.09 RCW), the Board's rules, in part, promote cooperative relationships and agreements with Indian 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). 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).

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 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 Committee, the Board's Timber/Fish/Wildlife Cultural Resources 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 of forest practices work specific to tribal relations. The first is an update on the rule required forest landowner/tribal meetings and process improvements pursuant to WAC 222-20-120. The second is an update on the work by Timber/Fish/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/tribal 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 affected Indian tribes of all applications of concern to such tribes, including those involving cultural resources, identified by the tribes". Additionally, when an application involves a cultural resource, subsection (2) of this 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 and notifications the tribe is interested in via the Forest Practices Application Review System (FPARS). Forest Practices Application Review System 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/tribal meetings for the Forest Practices HCP annual report. These steps also help address DNR region audit findings regarding tracking of required landowner/tribal meetings.

- Guidance on tracking landowner/tribal meetings was updated (2009 Forest Practices HCP annual report – Appendix J).
- DNR implemented a new tracking method in September 2008 that uses the Forest Practices master log to record:
  - Which applications required a landowner/tribal meeting, and
  - Which required landowner/tribal meetings took place.

Additionally, following the Board's historic sites rulemaking in 2008, the Forest Practices program conducted training and provided guidance to the regions on implementing these new rules as well as 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 resource issue, and
- Discussion on using the Forest Practices master log to track the required meeting data listed in the above paragraph.

The DNR regions have recorded in the master log that from July 1, 2009 through June 30, 2010 14 forest practices applications triggered the landowner/tribal meeting requirement. Landowners were required to meet with all the tribes that had expressed interest in the forest practices application, which in some instances included up to six different tribes. In all 14 cases, the landowner met with the tribes involved.

The program continues to follow up with each region to insure that the guidance on both rule interpretation and tracking of landowner/tribal meetings is being correctly implemented.

### **10.3 Update on Timber/Fish/Wildlife Cultural Resources Committee**

#### **Background**

The Timber/Fish/Wildlife Cultural Resources Committee (Committee) originated as part of the 1987 Timber/Fish/Wildlife collaboration. Today's Committee includes tribal representatives (especially Puyallup, Yakama, Suquamish, Quinault, and Cowlitz), 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).

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

In 2001, the Forest Practices Board asked the Committee to collaboratively develop a multi-caucus proposal to address the cultural resources commitments in the Forests and Fish Report. Appendices G and O of the Forests and Fish Report specifically committed to a watershed analysis cultural resources module and a cultural resources plan to enhance cooperative relationships between landowners and tribes.

In 2003, the Board accepted the Committee's consensus Cultural Resources Protection and Management Plan (Plan) as fulfillment of the two Forests and Fish commitments. The Plan includes in its appendices 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 and adopted the Committee's watershed analysis cultural resources module and rules.

The Plan is incorporated into the Forest Practices HCP as Appendix I.

The Committee updates the Plan to formally recognize completed projects. The current Cultural Resource Protection and Management Plan, updated October 2008, can be found at [http://www.dnr.wa.gov/Publications/fp\\_cultural\\_resources\\_ffrplan.pdf](http://www.dnr.wa.gov/Publications/fp_cultural_resources_ffrplan.pdf).

### **Ongoing and Current Work**

The forest practices program and the Committee continue to implement commitments in the Plan, as well as resolve other cultural resources issues related to forest practices. The three commitments specific to the Forest Practices program relate to notice to tribes, landowner/tribal 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 the Forest Practices Application Review System and has provided updated guidance on implementing WAC 222-20-120.

The program continues to assist 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 according to WAC 222-16-050. Specific funding is provided to the Department of Archaeology and Historic Preservation through a DNR-DAHP Interagency Agreement. Funding for fiscal year 2009-2010 was \$32,645, which provides a half time position. The Committee continues to advocate for a full time position at the Department of Archaeology and Historic Preservation.

Currently, Committee work priorities in fiscal 2009-2010 were as follows:

- On behalf of DNR, the Committee reports annually to the Board on the effectiveness of the Plan, as required by WAC 222-08-160 Continuing review of forest practices rules. The Committee provided their annual report to the Board twice in 2009, the first time in May to assist the new chair and members in understanding the Committee's purpose, work, and challenges and the second in November. The Committee plans to give its 2010 annual report in November.
- The Committee provided a quarterly report, in the form of its work plan, at each regular Board meeting as part of the staff reports to the Board.

- Working with the Board and DNR's Tribal Relations Manager, the Committee is writing a Committee charter.
- The Committee continued to work on clarifying language for WAC 222-20-120 and may bring consensus language to the Board in November 2010. See section 10.2.
- A 2010 scoping workshop was held by the Committee with numerous attendees providing their ideas and perspectives on cultural resources educational tools. Information gathered at the workshop is assisting the Committee to develop guidance products on implementing the Plan, as well as a potential Forest Practices board manual on cultural resources.
- The Committee continued its cultural resources educational efforts for the state's small forest landowners through the assistance of the Washington State University Extension Service.

Additionally, the Committee efforts to secure funding for a west-side and/or east-side test of the watershed analysis cultural resources module, and administrative assistance, are on hold until the state's economy improves.