

Forest Practices Habitat Conservation Plan Annual Report July 1, 2010 – June 30, 2011

Revised October 9, 2012

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WASHINGTON STATE DEPARTMENT OF
Natural Resources
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Successful implementation of the Forest Practices Habitat Conservation Plan involves the efforts of all of our partners in resource protection

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Executive Summary

In 2006, Washington State completed the [Forest Practices Habitat Conservation Plan](#) (Forest Practices HCP) (DNR 2005) to protect aquatic and riparian-dependent species on more than 9 million acres of state and private forestlands. That is, the State and forest landowners made a commitment to protect certain fish and amphibians that live in or depend on streams, lakes, and wetlands and the forests adjacent to them. This multi-stakeholder effort addressed the habitat needs of certain federally designated threatened and endangered fish species. The United States Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NOAA Fisheries) (collectively, “the Services”) accepted Washington’s Forest Practices HCP, and under the authority of the Endangered Species Act, on June 5, 2006 the Services issued Incidental Take Permits to Washington State. The Incidental Take Permits provide assurances for forest landowners who, if conducting forest practices activities in compliance with forest practices rules, cannot be prosecuted if they inadvertently “take” a member of a species covered by the HCP.

As a part of the HCP agreement, the State submits to the Services an annual report describing implementation activities. This, the fifth annual report, covers the period from July 1, 2010 to June 30, 2011. The report describes the State’s efforts (Washington State Department of Natural Resources (DNR) Forest Practices Program, Washington Department of Fish and Wildlife (WDFW), and Washington Department of Ecology (Ecology) to implement the Forest Practices HCP.

July 2010 – June 2011 Activities and Accomplishments

The Forest Practices Board (Board) adopted four rule amendments.

- In November 2010, the Board adopted rules incorporating portions of 2010 legislation that streamlined environmental and land use administrative appeals. For the Forest Practices Program the significant aspects of the legislation eliminated the Forest Practices Appeals Board, made DNR’s decisions appealable to the Pollution Control Hearings Board, standardized appeal deadlines to 30 days, and defined the term “date of receipt” as the standard trigger for appeal timelines. Chapters 222-12, 222-16, 222-20, 222-30, and 222-46 WAC were amended in this rule making.
- The Board adopted changes to chapter 222-23 WAC, *Riparian Open Space Program*, in May 2011. The rules incorporated 2009 legislative changes to include acquisitions of conservation easements for critical habitat for threatened and endangered species listed in WAC 222-16-080 *Critical habitats (state) of threatened and endangered species*.
- The Board adopted changes to the watershed analysis rules in May 2011. Most of the effects of this rule are contained in the amendments to WAC 222-22-090 *Use and review of a watershed analysis* and WAC 222-16-050 *Classes of forest practices* and addressed concerns about the adequacy of existing prescriptions to minimize or eliminate the failure of unstable slopes following forest management activities. The rules as amended will help ensure public safety and public natural resource protection.

- In May 2011, the Board added “forest biomass” to the definition of “forest practice” in WAC 222-16-010. The amendment makes it clear that forest biomass harvest is subject to the same resource protection measures as timber harvest in the Forest Practices Rules.

The Board currently is considering amending WACs 222-24-050 and 222-24-051 to allow forest landowners to extend the deadline for completing the road work scheduled in their Road Maintenance and Abandonment Plans (RMAPs)—to improve roads to prevent siltation from running into streams, and remove fish passage barriers. This rule making is the outcome of an Adaptive Management Program recommendation to the Board in August 2010. The rule change would allow for an extension of the deadline for up to five years, or until 2021. In May 2011, the Board approved the draft rule proposal for public review and will consider adopting the rules at the August 2011 meeting.

Three Adaptive Management Program research projects were completed and approved by the Cooperative Monitoring, Evaluation and Research (CMER) committee, and considered for action by Forests and Fish Policy (Policy) staff during the reporting period:

- *Effectiveness of Riparian Management Zones in Providing Habitat for Wildlife: Re-sampling at the 10-year Post-treatment Interval;*
- *Washington Road Sub-Basin Scale Effectiveness Monitoring First Sampling Event (2006-2008) Report;* and
- *Type N Experimental Buffer Treatment Study: Baseline Measures of Genetic Diversity and Gene Flow of Three Stream-Associated Amphibians.*

Although Policy did not recommend changes to rules resulting from the reports, Policy is considering changes in guidance to landowners related to road maintenance and abandonment planning in the Board Manual—which the Forest Practices Board approves—based on results from the road sub-basin study.

Another three draft final reports under the Adaptive Management Program were approved by CMER and have gone through Independent Scientific Peer Review during the reporting period:

- *Results of the Westside Type N Buffer Characteristics, Integrity, and Function Study;*
- *Extensive Riparian Status and Trends Monitoring Program – Stream Temperature Phase I: Eastside Type F/S Monitoring Project;* and
- *Evaluation of the Effectiveness of the Current TFW Shade Methodology for Measuring Attenuation of Solar Radiation to the Stream (Solar Study).*

These reports are currently being revised based on peer reviewer comments.

Also, a draft final report by the Adaptive Management Program was approved by CMER during the reporting period and currently is undergoing peer review: *The Mass Wasting Effectiveness Monitoring Project: A Post-Mortem Examination of the Landslide Response to the December 2007 Storm in Southwestern Washington.* This report was designed to address whether the forest practices rules—including harvest on potentially unstable slopes, road construction and maintenance rules, and Road Maintenance and Abandonment Plans (RMAPs)—are effective at limiting landslides from forest practices.

Standing snags and trees that could eventually fall into the stream—large woody debris—are important habitat elements that slow the stream; and shade and provide insects and matter that

feed fish and other species. The Incidental Take Permits of the Forest Practices HCP include a condition for tracking reduction-in-function in streams on 20-acre exempt parcels (as measured by lack of potential large woody debris currently in the riparian forest). The Forest Practices Rules for 20-acre exempt parcels provide less riparian protection for the habitat of HCP-covered aquatic species than the standard Forest Practices Rules. For the reporting period, there were 92 approved 20-acre exempt Forest Practices Application out of 4,222 *approved* Forest Practices Applications (of the 5,219 total applications received). These 20-acre exempt (non-conversion) applications along fish-bearing water comprised 2.2 percent of all approved applications submitted during the 2010-2011 reporting period.

The Services placed conditions on the Incidental Take Permits regarding specifically identified bull trout spawning and rearing habitat areas. These areas are of concern due to extremely low populations of bull trout. However, there were no forest practices applications associated with 20-acre exempt parcels in the bull trout areas of concern during the reporting period from July 1, 2010 through June 30, 2011.

The Compliance Monitoring Program published the *Biennium 2008-2009 Compliance Monitoring Summary Report* in February 2011. The compliance monitoring team, which is led by DNR and includes representatives of the state Departments of Ecology and Fish and Wildlife, focused on riparian and road-related activities. Report results showed a compliance rate of 79 percent with road-related Forest Practices Rules, and a 78 percent compliance rate with riparian-related rules. Additional emphasis area samples were examined for 20-acre exempt forest practices and forest practices with alternate plans. These were found to be 62 percent and 84 percent respectively. A compliance action plan has been drafted outlining measures to increase the compliance rate for road and riparian-related rules, including 20-acre exempt forest practices.

Road improvement and fish passage barrier work outlined in each industrial forest landowner's Road Maintenance and Abandonment Plan is critical for protecting fish habitat. This work requires significant financial outlay each year, primarily financed by timber revenues on private forest lands. While these landowners have made substantial progress in meeting their RMAP commitments, the economic downturn, begun in 2008, has had a significant impact on the resources available to accomplish the road improvements by the July 2016 deadline. As a result, the Forest Practices Board adopted draft forest practices rule language that would allow for an extension of the deadline for up to five years, or until 2021. In addition, the Forest Practices Program has evaluated how RMAP data is collected, evaluated, and reported. Particular attention is focused on implementation consistency and standardization including even-flow and worst-first assessment and tracking.

The Forest Practices Board formally accepted a request from the Timber/Fish/Wildlife (TFW) Cultural Resources Roundtable (formerly known as the TFW Cultural Resources Committee) to initiate rulemaking based on their consensus draft rule language amending WAC 222-20-120 to clarify the process for *Notice of forest practices to affected Indian tribes*. The rule is about notifying affected Indian tribes of forest practices applications of interest and protecting cultural resources, which include archaeological and historic sites and artifacts, and traditional religious, ceremonial and social uses and activities of affected Indian tribes. When a forest practices application involves a cultural resource, this rule requires forest landowners to meet with the

affected tribe with the objective of agreeing on a plan for protecting the archaeological or cultural value.

The Forest Practices Application Review System (FPARS) streamlines the processing of Forest Practices Applications, and it provides the public with the ability to review proposed forest activities statewide. It makes use of the Internet, document imaging and management technology, interactive geographic information system technology, and the Oracle database system. These technologies collect Forest Practices Application information, distribute forest practices applications for regulatory and public review, conduct risk assessment of proposed activities, and archive the applications. A total of 5,219 Forest Practices Applications/ Notifications were received and entered into FPARS between July 1, 2010, and June 30, 2011. Currently, nearly 1,170 reviewers receive notification of new applications in their area of interest. Another 455 individuals search the website for Forest Practices Application/ Notification (FPA/N) images on demand.

The FPARS (version 3) project was put on hold during the reporting period due to a lack of funding to fully complete the project. The version 3 project was designed to provide forest practices applicants with the ability to complete a Forest Practices Application and submit it via the internet. The foundational work completed last fiscal year is still in place, ready to be picked up once funding is available.

Retaining field forester positions has continued to be a top priority for the State during the current economic crisis. The Forest Practices program experienced position vacancy rates of 5% due to the state's hiring freeze implemented in this biennium. Despite the budget crisis and hiring freeze, the Forest Practices program preserved operational staffing levels essential for application review, compliance and enforcement at or above the rates reported in the '03-'05 biennium (the baseline biennium established by the Services in the HCP implementing agreement).

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1. Introduction to Forest Practices Habitat Conservation Plan 2011 Annual Report

1.1 Introduction

In 2006, Washington State completed the Forest Practices Habitat Conservation Plan (Forest Practices HCP) to protect aquatic and riparian-dependent species on more than 9 million acres of state and private forestlands. That is, the State and forest landowners made a commitment to protect certain fish and amphibians that live in or depend on streams, lakes, and wetlands and the forests adjacent to them. This multi-stakeholder effort addressed the habitat needs of certain federally designated threatened and endangered fish species. The United States Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NOAA Fisheries) (collectively, “the Services”) accepted Washington’s Forest Practices HCP and under the authority of the Endangered Species Act, on June 5 2006, the Services issued Incidental Take Permits to Washington State. The Incidental Take Permits provide assurances for forest landowners that, if conducting forest practices in compliance with forest practices rules, cannot be prosecuted if they inadvertently “take” (kill a member of or harm the habitat of) an aquatic or riparian-dependent species covered by the Forest Practices HCP. The implementation of the Forest Practices HCP is a partnership between the Services and Washington State.

Three state agencies, the Washington State Department of Natural Resources (DNR), the Washington Department of Fish and Wildlife (WDFW), and the Washington Department of Ecology (Ecology) work together to implement the Forest Practices HCP. DNR provides the majority of staff positions that oversee implementation of this HCP due to the authority given the department in the Forest Practices Act (chapter 76.09 Revised Code of Washington (RCW)) and Rules (Title 222 Washington Administrative Code (WAC)). However, both WDFW and Ecology have dedicated office and field staff time to support the various functions of the Forest Practices Program and the implementation of the Forest Practices HCP. Their support includes participation in the following:

- The Adaptive Management Program (which includes the Forest Practices Board (the Board)); the Cooperative Monitoring, Evaluation and Research Committee (CMER); the Forests and Fish Policy Committee (Policy); Adaptive Management Program Administrator; and the Independent Scientific Review Panel (Review Panel);
- The Compliance Monitoring Program (CMP);
- The Family Forest Fish Passage Program (FFFPP);
- The review of Road Maintenance and Abandonment Plans (RMAPs);
- The development of chapters in the Forest Practices Board Manual (Board Manual);
- The evaluation of water type change proposals;
- The review of forest practices applications; and
- Interdisciplinary Teams.

Under the Forest Practices HCP, the state has a commitment to submit an annual report to the Services describing the implementation activities. This fifth annual report covers the period from

July 1, 2010 to June 30, 2011. The report describes the efforts of the Department of Natural Resources' Forest Practices Program, and our partners to implement the Forest Practices HCP.

1.2 2011 Report Highlights

Highlights of the Forest Practices HCP implementation from July 1, 2010 to June 30, 2011 include:

Forest Practices Board

- Rule adoptions:
 - **Riparian Open Space Program** (now called “**Rivers and Habitat Open Space Program**”) – The Board adopted changes to chapter 222-23 WAC in May 2011. The rules incorporated 2009 legislative changes to include acquisitions of conservation easements for critical habitat for threatened and endangered species listed in WAC 222-16-080 *Critical habitat (state) of threatened and endangered species*.
 - **Watershed Analysis** – The Board adopted changes to the watershed analysis rules to address concerns as to whether the existing mass wasting prescriptions developed under watershed analysis (chapter 222-22 WAC) were sufficient to minimize or eliminate the failure of unstable slopes following forest management activities. The rules as amended will help ensure public safety and public resource protection.
 - **Forest Biomass** – The Board adopted an amendment to the definition of “forest practice” in WAC 222-16-010 to include forest biomass. The Board’s purpose was to make it clear to the public that forest biomass harvest is subject to the same resource protection measures as timber harvest in the forest practices rules.

Adaptive Management Program

- Forest and Fish Policy Committee, along with the Adaptive Management Program caucus principles (agency directors, Commissioner of Public Lands, industry and tribal leaders) made a commitment to find new sources of stable, long-term funding for the Adaptive Management Program.
- The program submitted three proposals to the Environmental Protection Agency (EPA) for research and monitoring funding. The soft rock study was chosen by EPA for funding in early 2011.
- Three projects were completed, approved by the Cooperative Monitoring, Evaluation, and Research Committee, and considered for action by the Forests and Fish Policy Committee in 2011.
- Three draft final reports were approved by the Cooperative Monitoring, Evaluation, and Research Committee and have undergone the Independent Scientific Peer Review process in 2011.

- Forests and Fish Policy Committee recommended an extension of the Road Maintenance and Abandonment Plan (RMAP) deadline and revisions to Forest Practices Board Manual Section 3, *Guidelines for Forest Roads*.

Small Forest Landowner Office

- Family Forest Fish Passage Program (FFFPP) – During the reporting period, 27 fish passage barrier projects were completed, opening up 82 miles of fish habitat. Since the inception of fish passage program in 2003, 193 barriers have been addressed, opening up approximately 500 miles of fish habitat.
- Forestry Riparian Easement Program – Twelve forestry riparian easements—representing 148 acres were purchased during the reporting period. Since funding for the Forestry Riparian Easement Program began in 2002, 290 easements have been purchased for a total of 4,941 acres.
- The Legislature passed Engrossed Substitute House Bill (ESHB) 1509 in the 2011 session amending RCW 76.13, which made substantial changes to the Forestry Riparian Easement Program.

20-Acre Exempt Riparian Forestland

- The forest practices applications for 20-acre exempt non-conversion proposals along fish-bearing waters comprised approximately 2.2 percent of all approved applications submitted during the 2010-2011 reporting period.
- The 2008/2009 Forest Practices Compliance Monitoring Report was published in February 2011. Data collection for the report included a separate focus on 20-acre exempt applications. The report showed that out of 45 forest practices assessed, 62 percent were found to be in compliance with the application. A compliance action plan was written, which included suggested measures to help increase the compliance rate on 20-acre exempt applications.
- Cumulatively, the first 5 years of the Incidental Take Permits indicate a low rate of potential impact, as measured by recruitable large woody debris, from harvest of 20-acre exempt forest parcels. In office estimations in all watershed administrative units indicate that there is less than 1 percent potential impact on recruitable large woody debris so far (see chapter 6 for more information). The impact is “potential” because the calculations are based on “proposed” harvests, not “completed” harvests, and estimates of stream impact are made in-office from information supplied on the application, not on-the-ground measurements.

Rivers and Habitat Open Space Program

- The Rivers and Habitat Open Space Program consider easement proposals of all forest landowners. The program acquires conservation easements for timber and, at the discretion of the landowner, also on the land within all “unconfined channel migration zones” or on forest lands containing state critical habitats of threatened and endangered species.

Compliance Monitoring Program

- The *Biennium 2008-2009 Compliance Monitoring Summary Report* was published in February 2011. The 2008-2009 monitoring effort focused on Riparian Management Zone rules (WAC 222-30), along with Road Construction and Maintenance rules (WAC 222-24). The report also covered three emphasis samples targeting 20-acre exempt applications, alternate plans, and riparian/wetlands activities. A summary of the report results is provided in Chapter 8.

Road Maintenance and Abandonment Planning for Large Forest Landowners

- The Forest Practices Board approved draft language amending WACs 222-24-050 and 222-24-051 to allow forest landowners to extend the deadline for completing their road work schedules in Road Maintenance and Abandonment Plans (RMAPs). When adopted, the rule change will allow for an extension of the deadline for up to five years, or until 2021.
- Since 2001, 18,475 miles of forest road have been improved to meet forest practices standards.
- During the reporting period, Washington State Department of Fish and Wildlife reviewed RMAPs statewide and issued 544 RMAP related Hydraulic Project Approvals.
- Improvements are being made to annual RMAP data collection, evaluation and reporting. Particular attention is focused on statewide consistency and standardization.
- The Forest Practices Board is considering amendments to Board Manual Section 3, *Guidelines for Forest Roads*, which will explain requirements and processes in the RMAP program.

Tribal Relations

- The Forest Practices Board formally accepted the charter of the Timber/Fish/Wildlife Cultural Resources Roundtable (formerly known as the Timber/Fish/Wildlife Cultural Resources Committee). Accordingly, the Roundtable is on the Board's website (see chapter 10 for citing). Interested parties can find the Roundtable's charter, agendas, meeting notes, and the Cultural Resources Protection and Management Plan on the website.
- In May 2011, the Forest Practices Board formally accepted a request from the Timber/Fish/Wildlife (TFW) Cultural Resources Roundtable to initiate rulemaking based on their consensus draft rule language amending WAC 222-20-120 to clarify the process for *Notice of forest practices to affected Indian tribes*. The rule is about notifying affected Indian tribes of forest practices applications of interest and protecting cultural resources, which include archaeological and historic sites and artifacts, and traditional religious, ceremonial and social uses and activities of affected Indian tribes. When a forest practices application involves a cultural resource, this rule requires forest landowners to meet with

the affected tribe with the objective of agreeing on a plan for protecting the archaeological or cultural value.

Enforcement

- There were 13,260 current (open) forest practices applications during the reporting period. During this period, 161 Notices to Comply and Stop Work Orders were written. Of these enforcement documents, 125 were for violations to the Forest Practices Rules.

Washington State Legislature

- ESHB 1509 made changes to the Forestry Riparian Easement Program.
- HB 1582 eliminated all references to “lands platted after January 1, 1960” from RCW 76.09.050 and 240, which are the statutes that define classes of forest practices and direct counties, when planning, to assume jurisdictional authority over forest conversion harvests. Proposed forest practices on these lands are not automatically assumed to be conversions to a non-forestry use, and therefore, are automatically to be designated as a Class IV-General application.

Information Technology

- A total of 5,219 Forest Practices Applications/Notifications (received or renewed) were entered into the Forest Practices Application Review System during the reporting period. Currently, nearly 1,170 reviewers receive notification of new applications in their area of interest. Another 455 individuals search the website for document images on demand.

Training

- Regions completed more than 130 training presentations and meetings during the reporting period. Topics included: wetland identification, Police Powers, Northern Spotted Owl assessments, state biomass project, water type verification, roads training, Western Grey squirrel training, cultural resources, unstable slopes, channel migration zones, and others.

2. Forest Practices Board

2.1 Introduction

The Forest Practices Board (Board) activities during the 2010-2011 reporting period are explained in this section. The Board adopted rules related to administrative appeals, forest biomass, the Riparian Open Space Program, and watershed analysis. The Board also approved revisions to Board Manual Section 11 *Standard Methodology for Conducting Watershed Analysis*, and a new Board Manual Section 18 *Rivers and Habitat Open Space Program*. In addition the Board considered changes to rules related to the notice of forest practices to affected Indian tribes, road maintenance and abandonment plans, and 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 Forest Practices Rules for non-federal and non-tribal forestlands that protect public resources while maintaining a viable forest products industry. "Public resources" is defined as water, fish and wildlife, and capital improvements of the state or its political subdivisions.

The Board consists of 13 members including 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, 2011 is:

- Bridget Moran, Commissioner of Public Lands Designee
- Mark Calhoon, Department of Commerce
- Tom Laurie, Department of Ecology
- Tom Davis, Department of Agriculture
- Anna Jackson, Department of Fish and Wildlife
- Dave Somers, Snohomish County Commissioner
- Bill Little, timber products union representative
- Doug Stinson, general public member and small forest landowner
- Sherry Fox, general public member and independent logging contractor
- Paula Swedeen, general public member
- Norm Schaaf, general public member
- David Herrera, general public member
- (vacant), 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 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 CMER Committee represents the science component of the program and oversees research and monitoring. 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/or 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, 2010 – June 30, 2011)

Administrative Appeals

On November 9, 2010, the Board adopted rules incorporating portions of 2010 legislation that streamlined environmental and land use administrative appeals. For the Forest Practices Program the significant aspects of the legislation eliminated the Forest Practices Appeals Board, made DNR's decisions appealable to the Pollution Control Hearings Board, standardized appeal deadlines to 30 days, and defined the term "date of receipt" as the standard trigger for appeal timelines. Chapters 222-12, 222-16, 222-20, 222-30, and 222-46 WAC were amended in this rule making.

Riparian Open Space Program

The Board adopted changes to chapter 222-23 WAC, *Riparian Open Space Program*, on May 10, 2011. The rules incorporated 2009 legislative changes to add acquisitions of conservation easements for critical habitat for threatened and endangered species listed in WAC 222-16-080 *Critical habitats (state) of threatened and endangered species*. This is in addition to habitat

within unconfined channel migration zones, which was the single focus of the original program enacted by the state legislature in 1999. The rule changes also carry forward the additional legislative mandate to only allow the acquisition of permanent conservation easements, not fee title interests as was allowed before 2009.

Watershed Analysis

The Board adopted changes to the watershed analysis rules on May 10, 2011. As reported in previous annual reports, the December 2-3, 2007 storm event in southwestern Washington resulted in extensive land sliding and damage to public resources and private property. The concern relating to forest practices that emerged from that event was whether the existing mass wasting prescriptions developed under watershed analysis (chapter 222-22 WAC) were sufficient for minimizing or eliminating the failure of unstable slopes after management. The rules as amended will help to ensure public safety and public resource protection.

The rule language was a product of the Adaptive Management Program. In August 2009, prior to the development of rule language, the Board convened a committee consisting of four Board members to focus on concerns with the existing rules and return with recommendations. At the Board's February 10, 2010 meeting the Board committee presented nine recommendations to the Board that included strategies for supporting the continued use of unstable slope prescriptions deemed adequate for resource protection and public safety. After convening special meetings in March and April, the Board approved a proposal initiation document pursuant to Board Manual Section 22 *Guidelines for Adaptive Management Program* (Washington Forest Practices Board, 2011). This was forwarded to the Adaptive Management Administrator who recommended the "policy track" for adaptive management review and recommendation. (For a description of this process, please see part 3.1 in the manual.)

Most of the effects of this rule are contained in the amendments to WAC 222-22-090 *Use and review of a watershed analysis* and WAC 222-16-050 *Classes of forest practices*, and include the following:

- Reinforces that watershed analyses must be kept up-to-date.
- States that entities interested in maintaining prescriptions (that DNR has identified for reanalysis) are responsible for committing sufficient resources to complete the reanalysis.
- Specifies that DNR will review approved prescriptions every five years, or sooner when certain conditions apply.
- States that DNR:
 - May rescind prescriptions if no affected landowners wish to participate and commit resources;
 - Shall classify a forest practices as Class IV-special if a watershed analysis is not current or is not being conducted in accordance with conditions required by DNR during reanalysis; and
 - May rescind prescriptions if the established timeline is not met for completing a reanalysis.

Forest Biomass

On May 10, 2011, the Board adopted an amendment to the definition of “forest practice” in WAC 222-16-010. The words, “or forest biomass” were added to the lead-in sentence of that definition. That definition now reads:

‘Forest practice’ means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber or forest biomass, including but not limited to:

Road and trail construction;

Harvesting, final and intermediate;

Pre-commercial thinning;

Reforestation;

Fertilization;

Prevention and suppression of diseases and insects;

Salvage of trees; and

Brush control...

The Board’s purpose was to make it clear to the public that forest biomass harvest is subject to the same resource protection measures as timber harvest in the Forest Practices Rules, including: equipment limitation zones; riparian and wetland management zones; leave tree requirements; shade requirements; residual down wood and wildlife tree requirements; and protection measures for unstable slopes.

Please see “Forest Biomass” in section 2.4 for an explanation of future activity related for forest biomass.

Road Maintenance and Abandonment Plans

The Board is considering amending WACs 222-24-050 and 222-24-051 to allow forest landowners to extend the deadline for completing their road work scheduled in Road Maintenance and Abandonment Plans (RMAPs). The rules currently require all road work to be completed by 2016. The rule changes would allow for an extension of the deadline for up to five years, or until 2021. On May 10, 2011, the Board approved a draft rule proposal for public review and will consider adopting the rules on August 9, 2011.

The RMAP program is an integral part of the rule package commonly referred to as the “Forests and Fish rules.” It requires forest landowners to plan and schedule all of the work needed on their lands necessary to improve and maintain their forest roads to meet certain standards specified in chapter 222-24 WAC and prevent damage to public resources. The original completion date (July 1, 2016, 15 years from the effective date of the 2001 Forests and Fish Rules) was based on an estimate of the time landowners would reasonably need to fund and accomplish their road improvements. The Board is considering this rule amendment because of the financial hardship forest landowners have experienced since the 2008 economic downturn and its effect on home construction and timber prices. Landowners depend on the revenue from harvests to accomplish their road improvements, and with reduced revenues, some landowners are having difficulty completing their road improvements as scheduled in their RMAPs.

Concurrent with rule making, the Board is considering amendments to Board Manual Section 3 *Guidelines for Forest Roads*, which will explain requirements and processes in the RMAPs program.

This rule making and board manual activity is the outcome of an Adaptive Management Program recommendation presented to the Board on August 10, 2010. The recommendation included three elements: a rule change, revised field guidance, and an operational plan. The operational plan was envisioned to include activities to enhance efforts to achieve Forests and Fish goals: collaborating to develop the rule amendments and guidance in the board manual, and securing funding to accelerate fish passage improvements on small forest landowners' and county roads – which are not subject to the RMAPs rules.

Notice of Forest Practices to Affected Indian Tribes

On May 10, 2011, Timber/Fish/Wildlife (TFW) Cultural Resources Roundtable (formerly 'committee') requested the Forest Practices Board to initiate rulemaking based on a consensus rule proposal to amend for clarification WAC 222-20-120 *Notice of forest practices to affected Indian tribes*. The existing rule requires landowners to meet with affected Indian tribes when Forest Practices Application activities intersect with cultural resources on a forest landscape. The meeting is required even when a tribe has no concerns about the particular cultural resource. In effect, it also directs tribes to participate in these meetings with landowners. This rule is causing problems for landowners and tribes, and also for DNR in its role of approving or disapproving these Forest Practices Applications. The Board may consider adopting changes to the rule at its February 2012 meeting.

2.4 Anticipated Forest Practices Board Direction

As indicated in section 2.3, the Board will continue rulemaking on the rules regarding "Road Maintenance and Abandonment Plans" and "Notice of Forest Practices to Affected Indian Tribes". The following are additional rule and board manual subjects the Board is expected to consider in the next reporting period.

Forestry Riparian Easement Program

2011 legislation (ESHB 1509) made several changes to the Forestry Riparian Easement Program (FREP), including but not limited to:

- Requiring landowners receiving funding to be non-governmental, for-profit legal entities;
- Expanding the qualifying timber to include forest trees on areas of potentially unstable slopes or landforms with potential to deliver sediment/debris to a public resource or threaten public safety;
- Allowing for reimbursement of preparation costs such as the cost of obtaining geotechnical reports.
- Requiring repayment to the state if the land is sold within 10 years to a non-qualifying landowner.
- Addressing long-term program funding by requiring the chair of the Forest Practices Board to develop with relevant stakeholders recommendations for the state legislature.

It will be necessary to incorporate the changes into the FREP rules (chapter 222-21 WAC) as appropriate. A new board manual may be developed concurrent with rule making.

Critical Habitats of Threatened and Endangered Species

The Washington Fish and Wildlife Commission amended the bald eagle protection rules (WAC 232-12-292) in the spring of 2011 because the species was removed from the federal threatened and endangered species list in 2007, and from the state threatened and endangered species list shortly thereafter. The species is still protected under two federal laws, the Bald and Golden Eagle Protection Act and the Migratory Bird Act.

The change in status makes it necessary to amend a section of the Forest Practices Rules, WAC 222-16-080 *Critical Habitats (state) of threatened and endangered species*, which lists forest-dependent state threatened and endangered species habitats and specific forest practices that are designated as Class IV-special. The Board also will consider: deleting the peregrine falcon from their critical habitats list because it was removed from the federal and state threatened and endangered species lists in 2002; correcting the common and scientific name of the western pond turtle, now known as the Pacific pond turtle; and clarifying that certain landowner plans listed in Subsection (6) of WAC 222-16-080 are subject to the State Environmental Policy Act (SEPA).

Lands Platted and Conversions

The 2011 state legislature also passed a bill (HB 1582) that eliminated all references to “lands platted after January 1, 1960” from RCW 76.09.050, which is the statute that defines classes of forest practices. The effect is that proposed forest practices on these lands will not automatically be assumed conversions to a non-forestry use, and therefore will not automatically be designated Class IV-General. Instead these forest practices will be classed I through IV as all other forest practices according to their impact on public resources. The Board will amend WAC 222-16-050(2), and WACs 222-20-010, -020, and -040 accordingly.

In addition, the Board may amend rules corresponding to other recent legislative changes to chapter 76.09 RCW. These changes are related to the elimination of the six-year moratorium on development when landowners have not stated their intention to convert their forest land to other uses, and to other aspects of forest land conversion.

Trees and Houses

As indicated in the 2008, 2009, and 2010 reports, the Board considered rule making that would exclude trees immediately adjacent to residential structures from the definition of “forest land.” Jurisdiction over tree removal in these areas would be transferred from DNR to local governmental entities, but the Department of Labor and Industries would maintain its jurisdiction for public safety purposes. In 2008 the Board put this rule making on hold indefinitely; however, the Board may choose to include it with rule-making activity associated with conversions.

Forest Biomass

In response to public sentiment during the Forest Biomass rule-making process in the 2010-2011 reporting period, DNR is convening 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. It will meet about once a month in the remainder of 2011 and part of 2012. The goal is to develop a well-informed recommendation to the Forest Practices Board on whether additional rule making or guidance is needed to protect resources beyond the protections already provided in the rules.

Board Manual Updates

The Board may also consider updating board manual sections, including but not necessarily limited to:

- Section 1 *Method for Determination of Adequate Shade Requirements on Streams*
- Section 7 *Guidelines for Riparian Management Zones*
- Section 12 *Guidance for Application of Forest Chemicals*

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 implementing 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 board manual sections with assistance from 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 identifying key elements to be addressed and progresses to drafting language with DNR in the lead. During this development phase any interested party may comment on a draft. For board manual sections providing 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 approves it for inclusion in the manual. 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, 2010 – June 30, 2011)

Board Manual Section 11 *Standard Methodology for Conducting Watershed Analysis*

The Board approved two new parts to Board Manual Section 11. Part 8 *Review and Reanalysis of Watershed Analysis*, provides a general overview of the review and reanalysis process adopted in the watershed analysis rules described above in section 2.3. Part 9, Appendix K *Mass Wasting Reanalysis*, provides guidance for the reanalysis process for mass wasting (unstable slope) prescriptions.

Board Manual Section 18 *Rivers and Habitat Open Space Program*

On May 10, 2011, the Board approved this new manual which provides guidance for applicants for the Rivers and Habitat Open Space Program. As explained previously in section 2.3, the program compensates forest landowners for conservation easements of lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040. Additionally, the name of the program is changed to “Rivers and Habitat Open Space Program.”

Board Manual Section 3 *Guidelines for Forest Roads*

An amendment to Part 2 of this section was developed concurrently with the Road Maintenance and Abandonment Plan (RMAP) rule making. The Board will consider approving the amended

board manual on August 9, 2011, the same date the Board will consider adopting the RMAP rules. Requirements for landowners to request extensions for RMAP completion deadlines will be included, as well as guidance for landowners on progress reports and a description of DNR's and stakeholders' review of landowners' progress reports.

Board Manual Section 21 *Guidelines for Alternate Plans*

The Board may consider a new small forest landowner "low impact" alternate plan template in Section 21. The template would provide a thinning strategy for riparian management zones.

3. Adaptive Management Program

3.1 Introduction

This chapter provides a brief background on the Forest Practices Adaptive Management Program (AMP) and accomplishments to date. Those accomplishments in large part occur through the Cooperative Monitoring, Evaluation and Research Committee (CMER) projects. CMER's work plan presents an integrated strategy for conducting research and monitoring to provide scientific information to support the Adaptive Management Program. Section 3.6 lists websites that give detailed information on the work plan and projects.

Section 3.7 contains information on electro-fishing activities associated with Adaptive Management Program projects. The Services specifically requested this information through the conditions that govern the Incidental Take Permits.

3.2 Purpose of Adaptive Management Program

The Adaptive Management Program is intended to produce technical information and science-based recommendations to assist the Forest Practices Board (Board) in determining if and when it is necessary or advisable to adjust Forest Practices Rules and guidance in order to achieve program goals, resource objectives and performance targets identified in the Forest Practices Habitat Conservation Plan (Forest Practices HCP). As a result, a successful Adaptive Management Program is essential to ensure that the ongoing development and implementation of measures effectively conserve the habitats of species covered under the Forest Practices HCP. A full description of the program, the components, process, as well as the research and monitoring programs can be found in Chapter 4, section 4a-4 of the Forest Practices HCP.

The current Adaptive Management Program has been formally in place since the adoption of the permanent Forest Practices Rules as a result of the 2001 Forests and Fish Report. Schedule L-1 from the [Forests and Fish Report](#) (U.S. Fish and Wildlife Service, 1999) served as the foundation for the program, and more specifically guides the development of research and monitoring projects described in the fiscal year (FY) [2012 CMER Work Plan](#) (CMER 2011). Key questions — and therefore research and monitoring priorities — are likely to change over time as adaptive management proceeds, new information becomes available, and ways are found to use the information to improve forest practices. Major research priorities presented in the CMER work plan have not changed substantially at the overall program level since the most recent program prioritization in 2002. However, some reprioritization has taken place on a project level in an effort to answer questions related to Clean Water Act (CWA) assurances in a timelier manner. While at the discretion of the Board, changes to resource objectives, performance targets and research and monitoring priorities typically would be reviewed and agreed to by the Forests and Fish Policy Committee.

3.3 Adaptive Management Program History

Since 2001 the Forest Practices Adaptive Management Program has completed more than 30 projects. Many of these projects are posted on the program's web-page (see section 3.6). Much of the program's early work was to support rule tools designed to develop, refine or validate protocols, models and targets used to facilitate Forest Practices Rule implementation. These

projects did not necessarily result in a final project report or rule change, but did result in draft reports, Geographic Information System (GIS) products or other types of databases.

Over the last few years the Adaptive Management Program has focused much of its effort on effectiveness monitoring and extensive (status and trends) monitoring projects. The effort to more fully integrate research and monitoring across spatial and temporal scales is ongoing and will continue in FY 2012.

The Adaptive Management Program caucus representatives (tribes, state and federal government, large and small forest landowners, and conservation groups) worked together in FY 2010 and FY 2011 to seek long-term funding for the program (see section 3.5 below). Additionally, the Adaptive Management Program submitted three proposals for research and monitoring funding to the federal Environmental Protection Agency. One proposal was for partial funding of a “soft rock” Type N buffer effectiveness project, emphasizing water temperature and sediment delivery. Another proposal was for partial funding for a wetlands mitigation effectiveness study, focusing on the effectiveness of the road mitigation sequence in maintaining riparian functions. The third proposal was for funding to develop a management information database and information sharing system. The soft rock study was chosen by EPA for funding in early FY 2011 and an EPA-required Quality Assurance Project Plan was developed and approved by CMER in late FY 2011. It has not been normal practice for the Adaptive Management Program to submit proposals for funding. Developing and submitting these funding proposals was a significant accomplishment in FY 2010-11.

3.4 Cooperative Monitoring, Evaluation, and Research Committee

The CMER Committee produces an annual work plan that describes the various Adaptive Management Program research and monitoring programs, associated projects and work schedule. The work plan can be found on the “Forest Practices Adaptive Management Program” web page (see section 3.6 below) under the “Files” header. The plan is intended to inform participants, the Forest Practices Board, the Forests and Fish Policy Committee and members of the public about CMER activities. The programs in the work plan originally were prioritized, based on the level of scientific uncertainty and resource risk associated with the priorities of Schedule L-1 in the Forests and Fish Report (U.S. Fish and Wildlife Service, 1999) and incorporated into the Forest Practices HCP (Washington DNR, 2005). CMER projects address the needs of higher priority programs first to ensure that the most important questions about resource protection are answered before the questions with lower scientific uncertainty or lower resource risk. Projects were re-prioritized in FY 2010 to focus on Clean Water Act assurances over the next few years. The plan is a dynamic document that is revised annually in response to research findings, changes in the Forest Practices Board and Forests and Fish Policy Committee objectives, and available funding.

CMER takes on many other ad hoc projects in addition to their ordinary course of business of developing, implementing, and reporting on research and monitoring projects and revising and improving its annual work plan every year. One project taken on in FY 2010 included development of a table that shows how the resource goals and objectives and performance targets are addressed by the studies found in the CMER work plan. The table can be found in Fiscal Year 2012 CMER Work Plan (Washington Cooperative Monitoring, Evaluation, and

Research Committee, 2011). For each project, the table displays the status, task type, goals, resource objectives, and performance targets addressed by the project. Construction of this table has allowed the committee to review all of its projects in a comprehensive way. It provides valuable information to Policy and CMER committees in their assessment of the balance of efforts being placed in answering questions related to the various resource objectives and performance targets. It also helps answer questions about the balance of types of research and monitoring undertaken, e.g., rule tools vs. monitoring. The table will be revised annually.

In the Fiscal Year 2012 CMER Work Plan, under each research and monitoring program is a new section titled “Link to Adaptive Management.” This section was added to the work plan primarily to help Forests and Fish Policy and the Forest Practices Board understand how each rule group critical question is being addressed by the projects. Knowledge gained or anticipated, identified gaps, and recommendations for addressing gaps are discussed for each critical question. The “Link to Adaptive Management” section will be updated as projects are completed. The intent is to have this section completed for every program within the work plan. However, for the Fiscal Year 2012 CMER Work Plan, the programs were prioritized for active and completed projects.

Three projects were completed, approved by the CMER Committee, and considered for action by Policy Committee in FY 2011. The projects were: Effectiveness of Riparian Management Zones in Providing Habitat for Wildlife: Re-sampling at the 10-year Post-treatment Interval; Washington Road Sub-Basin Scale Effectiveness Monitoring First Sampling Event (2006-2008) Report; and Type N Experimental Buffer Treatment Study: Baseline Measures of Genetic Diversity and Gene Flow of Three Stream-Associated Amphibians. Although the Policy Committee did not recommend changes to rules resulting from the reports, Policy is considering changes in guidance to landowners related to road maintenance and abandonment planning in the Board Manual – which the Forest Practices Board approves – based on results from the road sub-basin study.

Three other draft final reports were approved by CMER and have gone through Independent Scientific Peer Review (ISPR) in FY 2011. They are: Results of the Westside Type N Buffer Characteristics, Integrity, and Function Study; Extensive Riparian Status and Trends Monitoring Program-Stream Temperature Phase I: Eastside Type F/S Monitoring Project; and Evaluation of the Effectiveness of the Current TFW Shade Methodology for Measuring Attenuation of Solar Radiation to the Stream (Solar Study). These reports currently are being revised based on the Independent Scientific Panel reviewer comments.

Finally, a draft final report approved by the CMER Committee in FY2011 and currently in Independent Scientific Panel review is The Mass Wasting Effectiveness Monitoring Project: A Post-Mortem Examination of the Landslide Response to the December 2007 Storm in Southwestern Washington.

The status of “Active CMER Projects” can be found on the Forest Practices Adaptive Management Program web-page under the “related links” header (See section 3.6). There is also a link to final reports for completed projects under this same header. Agendas of CMER and

Forests and Fish Policy Committee meetings can be found under the “related links” header on the CMER webpage.

3.5 Forests and Fish Policy Committee Activity (July 1, 2010 – June 30, 2011)

General Policy Activity

The Forests and Fish Policy Committee held a budget retreat in April 2011 and reviewed the Fiscal Year 2012 CMER Work Plan and budget. The Forest Practices Board approved the work plan and budget at the May 2011 Forest Practices Board meeting. Most of the FY 2012 research and monitoring projects have been in place for at least a year or more, with many likely to be completed by the end of FY 2012. The CMER work plan proposes implementing at least two new projects in FY 2012.

CMER completed several project reports during the 2010-2011 Forest Practices HCP reporting year, as described above. Most did not result in a Forests and Fish Policy Committee action or recommendation to the Board, primarily because they were reports about developing methods or the initial phases of multi-phase projects.

As reported in the 2009 Forest Practices HCP Annual Report, during 2008 a considerable amount of Forests and Fish Policy Committee time was devoted to developing an Adaptive Management Program Strategic Plan (Plan) (Washington DNR, 2008). The Plan has four major goals to address four main topic areas: 1) program efficiency and effectiveness; 2) caucus relationships; 3) program funding and communications; and 4) research capability and knowledge. The Policy and CMER committees worked on the goals on many fronts.

Relative to the first goal, it has been nearly twelve years since the 1999 Forests and Fish Report was completed and nearly ten years since the revised Forest Practices Rules (“rules”) based on that report were adopted. Substantial investments have been made in defining and implementing a science-based program to provide relevant and timely information to inform the adaptive management program as contemplated by the 1999 Forests and Fish Report and required by the rules. These collective efforts—organized and implemented by the CMER Committee—have attempted to address the full spectrum of information needs and priorities set forth by the Adaptive Management Program, which consists of the Forest Practices Board (Board), Policy and CMER committees, the Independent Science Panel (ISP), and the Adaptive Management Program Administrator. In the spring of 2009, Stillwater Sciences completed the first independent review of the collective contribution and progress from the various CMER research and monitoring studies. Policy and CMER committees began reviewing the report during the year in anticipation of developing a response.

Due to the recent recession and its severe negative impact on lumber and timber markets, forest landowners, working with the governor’s office, requested that the Policy Committee consider a schedule adjustment to the time period for completing Road Maintenance and Abandonment Plan (RMAP) work in order to reduce the annual cost of the program. The Governor’s Office was particularly interested in providing support to the FFFPP program and also to assess the risk for small forest landowner roads. Policy formed a sub-group to work with the Governor’s Office and all caucuses on funding alternatives for accelerating the FFFPP program, assess small forest landowner roads and for all caucuses to work collaboratively to seek additional funding for small

landowner and county fish passage barrier repair. The Forest Practices Board considered a recommendation by the Forests and Fish Policy Committee that would extend the RMAP deadline, and modify Board Manual revisions, and subsequently approved draft rule language at the May 10, 2011 Board meeting. A third component is development of an operational plan by the Forest Practices operations section.

Policy also recommended to the Forest Practices Board – which the Board approved – a watershed analysis rule intended to ensure watershed analysis prescriptions continue to address the potential for adverse effects on resources from forest practices activities. The language fills gaps in the previous watershed analysis review process by including new standards designed to keep prescriptions current and protective enough to warrant exemption from Class IV-special classification.

Clean Water Act Assurances

Upon the completion of the Forests and Fish Report in 1999, the Washington State Department of Ecology (Ecology) and the Environmental Protection Agency agreed to provide Clean Water Act assurances to the State of Washington for a period of ten years. It was assumed ten years would be sufficient time to determine if implementation of the revised rules and Forest Practices program—including adaptive management—were effective in meeting water quality standards, or putting impaired waters on a trajectory to meeting standards. Ecology reviewed the Forest Practices Program to determine if the Clean Water Act assurances should be retained and produced a report of their findings in July 2009. For Ecology’s report go to, <http://www.ecy.wa.gov/programs/wq/nonpoint/ForestRules.html> and click on: [*2009 Clean Water Act Assurances Review of Washington’s Forest Practices Program*](#) (Washington State Department of Ecology 2009). This report was transmitted to the Forest Practices Board in October 2009.

The report concluded that while much has been accomplished, much remains to be done. In particular, Adaptive Management Program research and monitoring projects designed to determine if the rules are effective in meeting water quality standards are not yet complete. Consequently, Ecology was unable to determine rule effectiveness. The report contained milestones of accomplishments related to the Adaptive Management Program, including a schedule for individual research and monitoring projects, deemed important for Clean Water Act assurances. The assurances document also identified some operational milestones that needed to be implemented. Ecology conditionally extended Clean Water Act assurances based on the need to satisfactorily accomplish the milestones. DNR established a project management tracking system for the 21 milestones. The Adaptive Management Program Administrator was lead on six and co-lead on one of the 21 Clean Water Act milestones. Four of the seven Adaptive Management Program related milestones have been completed. The remaining three Adaptive Management Program related milestones are in various stages of completion.

Forests and Fish Policy Committee Priorities for Fiscal Year 2011-12

The Forests and Fish Policy Committee prioritized their work list in summer of 2010 and submitted a letter to the Board in November 2010. Although the work list is a dynamic document, high priority work items continued to include:

1) Securing long-term supplemental funding for the Adaptive Management Program. Over the last ten years DNR has received seven federal grants totaling more than \$20 million to support the Forest Practices Adaptive Management Program. These grants have supplied the vast majority of the program's funding over this time period. However, the last grant was expended in FY 2011. Therefore, beginning in FY 2011 the Forest Practices Adaptive Management Program needed an additional \$2.5 million per year in operating revenue to maintain adequate program operating capacity.

To cover the \$2.5 million budget short fall for FY 2011, the Washington State Legislature funded the program by tapping into the Aquatics Land Enhancement Account and relying on federal grants, if awarded. However, that was a one-time fix and not meant to be a permanent solution to long-term funding of the program. DNR also worked on an agreement with the Washington Office of Management and Budget to free up more of the money held in the Forests and Fish Support Account working reserve. These one-time allocations were sufficient to hold the program over through FY 2011. Funding for FY 2012 will come primarily from the Forests and Fish Support Account (approximately \$2.9 million), EPA grant, and DNR-allotted general fund-state revenue. However, funding through the Forests and Fish Support Account did not come without a cost – a 20 percent reduction in participation grants to the tribal community and a 50 percent reduction to non-governmental organizations.

Caucus principles (agency directors, Commissioner of Public Lands, industry and tribal caucus leaders, etc.), working with their Forests and Fish Policy Committee designees, are committed to finding new sources of stable, long-term funding. In addition to considering potential state and federal funding alternatives, the current funding strategy also includes the CMER Committee actively competing for federal grants, when they become available.

2) Implementing high priority Clean Water Act assurance milestones identified in Ecology's July 2009 review.

3) Implementing other high priority tasks in the Adaptive Management Plan strategic plan.

3.6 Adaptive Management Program Website

Adaptive Management Program Website:

http://www.dnr.wa.gov/BusinessPermits/Topics/FPAdaptiveManagementProgram/Pages/fp_am_program.aspx

CMER Websites:

<http://www.dnr.wa.gov/AboutDNR/BoardsCouncils/CMER/Pages/Home.aspx>

Active CMER Projects Website:

http://www.dnr.wa.gov/BusinessPermits/Topics/FPAdaptiveManagementProgram/Pages/fp_cmer_active_projects.aspx

Completed CMER Projects Website:

http://www.dnr.wa.gov/BusinessPermits/Topics/FPAdaptiveManagementProgram/Pages/fp_cmer_completed_projects.aspx

3.7 Electro-fishing Report

One of the conditions of the Incidental Take Permits relates to electro-fishing. Electro-fishing is used to determine if listed fish species are in a stream. A shocking device is used to stun fish so they can be counted. United State Fish and Wildlife Service and NOAA Fisheries asked for an accounting of any electrofishing related to Adaptive Management Program research.

Electrofishing Activity

The only project to incorporate electrofishing as part of the research project is the ongoing project that was reported in the 2010 annual report. There were no new projects involving electrofishing related to Adaptive Management Program research between July 1, 2010 and June 30, 2011.

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**Electrofishing Conducted for Adaptive Management Research
Pre- and Post-Activities Report, FY2007
(As required under the Incidental Take Permit for the Forest Practices HCP)**

Pre Electrofishing

1. Name of project: Type N Experimental Buffer Study

Date of project implementation for 2010 field season: July-October, 2010

Primary contact for project: Bill Ehinger/Marc Hayes

Names of watersheds where surveys will be conducted:

Extreme headwater tributaries to: Willapa River, North River, Wishkah River, Clearwater River, Humptulips River.

2. Estimate the number of listed fish or miles of listed-species habitat affected by electro fishing activities:

0 miles.

3. Provide names and qualifications of the staff, contractors, or cooperators who will be supervising the field work:

Aimee McIntyre, Project Technician, Washington State Department of Fish and Wildlife.
Jason Walter, Senior Aquatic Research Technician, Weyerhaeuser Company.

- 4. Provide a copy of the operating protocols designed to reduce effects to listed fish while maintaining the efficiency of the surveys and monitoring (operating protocol includes guidelines by National Marine Fisheries Service (NMFS 2000) and any subsequent updates):**

None required. No sampling in streams containing listed fish.

Post Electrofishing

- 1. Document the length of stream-survey and electrofishing activity:**

800 meters total stream length sampled twice yearly.

- 2. Document any listed-fish encounters:**

None.

- 3. Document any effects that rose to the level of incidental take (harm to habitat or listed species) including mortality:**

None.

- 4. List the apparent condition of all listed fish specimens encountered:**

N/A

4. Forest Practices Operations

4.1 Introduction

Forest Practices Operations is responsible for administering and enforcing the Forest Practices Rules on approximately 12 million acres of private, state, and other non-federal public forestlands. These rules provide protection for public resources defined as: water, fish, wildlife, and capital improvements of the state or its political subdivisions and provide some of the highest standards for resource protection on forestlands in the nation. The rules cover practices such as timber harvest, pre-commercial and commercial thinning, road construction, forest fertilization, and forest chemical application. They give direction on how to implement the state Forest Practices Act.

4.2 Forest Practices Activities

Forest Practices Operations consists of both office and field staff. Statewide there are about 82 positions – the majority are full-time, though some are currently vacant due to budget reductions. Of the 82 positions, 44 are assigned in the field and are directly responsible for reviewing, complying, and enforcing the Forest Practices Act and Rules.

For the reporting period of July 1, 2010 through June 30, 2011 Forest Practices Operations staff processed 5,219 new applications/notifications. The table below provides a breakdown of this information by DNR region.

Decisions for Applications Received or Renewed During Fiscal Year 2011

REGION	RENEWAL	APPROVED	CLOSED	DISAPPROVED	VALIDATED	Total by Region
SOUTH PUGET SOUND	74	616	47	20	0	757
PACIFIC CASCADE	308	1631	46	9	2	1996
OLYMPIC	74	569	37	30	0	710
SOUTHEAST	64	197	8	6	2	277
NORTHWEST	95	588	5	59	0	747
NORTHEAST	72	621	18	21	0	732
Total by Decision	687	4222	161	145	4	5219

Closed means the application/notification was withdrawn by the applicant.

Validated means the department's agreement that a small forest landowner has correctly identified and classified resources, and satisfactorily completed a roads assessment for the geographic area described in Step 1 of a long-term application.

During this same reporting period there were a total of 13,260 applications/notifications statewide that were current, i.e. approved for operations.

4.3 Priorities

Forest Practices Operations has three primary objectives: processing applications, compliance, and enforcement of forest practices activities. Priorities are based upon ensuring that these three objectives are met. This chapter will focus on the priorities that have had the greatest impact on Operations during this reporting period.

DNR's Strategic Plan 2010 – 2014: *The Goldmark Agenda* (DNR 2010) - Goal II *Improve Forest Practices Rules and Strengthen Implementation and Compliance*

The Strategic Plan has identified two major initiatives to be achieved by Operations over the next five years:

- Ensure the Forest Practices Rules are fully, fairly, and consistently implemented and enforced by DNR staff.
- Improve landowner compliance with the Forest Practices Rules.

Each of these initiatives is associated with numerous action strategies that will need to be achieved in order to be successful. The following action strategies must be completed:

- Finalize initial internal field audits and coordinate necessary modifications with regions, and re-confirm/redesign future audit cycles.
- Complete the Clean Water Act assurances milestone to develop a plan and timeline for improving compliance with the forest practices rules.

Forest Practices Program Region Audits

This is one of DNR's Strategic Plan Goal II Initiatives. The intent is to resume conducting the audits that were initiated in 2006. Field audits were completed within each region in 2006 but were never formally finalized. This initiative will get the audits restarted. An important part of this process will be to reevaluate the audit's purpose and implementation plan to ensure the questions being asked and processes being evaluated are still relevant, and prior to restarting the audit process, make appropriate changes where necessary.

The audit plan, as identified in 2006, directed division staff to coordinate a series of audits in order to evaluate the delivery of the Forest Practices Program at the region level. Information obtained from these audits would inform the program where changes should be made in order to improve efficiencies and consistency across regions. There were four components of the original audit plan:

- Operations
- External Relations
- Program Leadership
- Forest Practices Division Support

Progress to date has been minimal due to budget constraints.

Department of Ecology's 2009 Clean Water Act Assurances Review

WAC 222-12-010 states, 'Promulgation of all forest practices rules shall be accomplished so that compliance with such forest practices rules will achieve compliance with the water quality laws.' All Forest Practices Rules that are marked with an asterisk (*) pertain to water quality and can only be adopted or amended with agreement by the Department of Ecology. Because of the level of protection the Forest Practices Rules were anticipated to provide for water quality and the presence of a formal adaptive management program to test and revise those rules where needed, Ecology granted assurances that implementation of the rules would insure compliance with the state's water quality standards. These assurances were reviewed after a ten-year period (in 2009) to determine whether the rules are providing the required level of protection.

For Ecology's report go to, <http://www.ecy.wa.gov/programs/wq/nonpoint/ForestRules.html> and click on: [*2009 Clean Water Act Assurances Review of Washington's Forest Practices Program*](#), (Washington State Department of Ecology, 2009). Based upon the reviews' findings, the assurances were conditionally extended provided specific actions, identified as *milestones* are achieved by specific dates. In all, there are twenty-one milestones identified to be completed by the Forest Practices participants. The state's budget constraints are having a negative impact on DNR's ability to complete the milestones within the identified timelines. Forest Practices Operations have twelve milestones to address and the following five have been completed, or are very near completion:

- #8 - Field Dispute Resolution,
- #9 - Stakeholder RMAP Participation,
- #10 - Water Type Modification Review Process,
- #11 - Water Type On-Line Guidance
- #13 - Individual Landowner Tracking (this milestone was broken into three parts and two have been completed)

See Appendix #1 for a description and current status of the CWA Milestones.

Forest Practices Program Guidance

Forest practices guidance supplements the Forest Practices Rules and Board Manual. The complexity of the rules, details of program administration and variability in the forested environment often pose unique challenges for landowners and DNR staff in implementing the rules across the landscape. Situations commonly arise in which neither the rules nor the Board Manual provide enough specificity to resolve a particular implementation issue. Therefore, DNR develops internal guidance that provides direction consistent with established program goals, resource protection objectives and performance targets. New guidance or changes to existing guidance are communicated to region forest practices staff in writing. Any guidance that affects cooperating agencies, organizations and landowners is shared outside of the agency.

DNR created several guidance documents between July 1, 2010, and June 30, 2011. The following is a summary description of the written guidance that has been shared with the forest practices staff:

Summary of Written Guidance Issued to Department Staff July 1, 2010 – June 30, 2011

Date	Reason for guidance	Accomplishment
10/20/2010	RMZ protection at the upper extent of the Type F stream	Provided examples of several situations and the RMZ requirements. Includes illustrations and rule text.
11/1/2010	Dispute Resolution process (Clean Water Act Assurance milestone #8)	Describes a specific process that stakeholders will follow when a dispute arises pertaining to a decision by forest practices staff.
12/22/2010	Enforcement Handbook	Update of the Enforcement Handbook describing the process used to complete, issue and comply the programs appealable documents.
2/16/2011	Precipitation and forecasted stream flow for the 2011 fish survey season. Required by Board Manual Section 13	Predicted drought is expected to be a factor in accurately determining fish presence or absence in some areas of Washington.
3/15/2011	Collection of unpaid civil penalties	Update of two agency procedures regarding civil penalty payment tracking and the required steps if the civil penalty is not paid.
3/18/2011	Enforcement document service (replaces 2006 guidance)	Provides guidance when enforcement documents are issued and Brief Adjudicated Proceeding (BAP) decisions are made to reflect the changes to the Forest Practices Act in SHB 2935. The time period for a party to appeal a forest practices decision begins at the date of service or the date of receipt.
6/8/2011	Classifying forest practice applications that are near bald eagle nest or roost trees. WDFW rule change.	Beginning May 29, 2011, Forest Practices Applications that are near bald eagle nest or roost trees may require an environmental checklist and SEPA review before the application decision is made.

5. Small Forest Landowner Office

5.1 Introduction

The Small Forest Landowner Office (SFLO) serves as a resource and focal point for small forest landowner concerns and policies. The mission is to promote the economic and ecological viability of small forest landowners while protecting public natural resources. The office was created in the 1999 Salmon Recovery Act, when the Forests and Fish Rules were passed. The new rules resulted in increased size of riparian buffers and created further measures to protect water quality and restore salmon habitat. The Washington State Legislature recognized that the Forests and Fish Rules would have a disproportionate economic effect on small, family-owned forests. To help small landowners retain their forestland and not convert the land to other land uses, the legislature authorized the creation of a Small Forest Landowner Office within DNR. This office was directed to assist small landowners and begin assessing ways in which policies could be crafted to support them.

This chapter describes accomplishments, opportunities and challenges with a primary focus on two small forest landowner incentive programs, the Forestry Riparian Easement Program (FREP) and the Family Forest Fish Passage Program (FFFPP). These two programs were developed to be managed by the Small Forest Landowner Office and its partners to assist small forest landowners. A third program now administered by the office, which assists both small and large forest landowners, is the Rivers and Habitat Open Space Program (R&HOSP). The description of the program can be found in chapter 7 of this report. The Rivers and Habitat Open Space Program, formerly known as the Riparian Open Space Program, was initially administered by the DNR Asset Management Division because at the time the program allowed the state to purchase forest land. Due to legislative changes in the program, and because of the similarity to the Forestry Riparian Easement Program, the Rivers and Habitat Open Space Program is now administered by staff in the Small Forest Landowner Office.

5.2 Forestry Riparian Easement Program

Provisions included in the [1999 Salmon Recovery Act](#) established the Forest Riparian Easement Program (FREP). The easement program acknowledges the importance of small forest landowners and the contributions they make to protect wildlife habitat and water quality.

The Forestry Riparian Easement Program compensates eligible small forest landowners in exchange for a 50-year easement on those lands with “qualifying timber.” Qualifying timber are those trees that the landowner is required to leave unharvested as a result of Forest Practices Rules protecting Washington’s aquatic resources. Landowners cannot cut or remove any qualifying timber during the life of the easement period. The landowner still owns the property and retains full access, but has “leased” the trees and their associated riparian function to the state.

Funding for the program has been allocated by the Washington State Legislature since 2002. Funding was not available in fiscal year 2010, and then became available again in fiscal year 2011. Prior to June 2009, Forestry Riparian Easement Program applications were processed and purchased in the order received, commensurate with available funding. For the 2011 fiscal year

funding period the legislature funded the program in the amount of \$1 million through the legislature's supplemental capital budget appropriation. The budget appropriation required DNR to prioritize its funding of forest riparian easements for fiscal year 2011 differently than before (i.e. no longer just in order received). As shown in the table below, twelve easements were purchased in fiscal year 2011 - using the prioritization established by the legislature.

Forestry Riparian Easement Program Budget and Acres Purchased

Fiscal Year	Budget Allocated	Amount Spent	Applications	Easements Purchased	Acres Purchased
01-03	\$3,750,000	\$3,750,000	72	29	702
03-05	\$4,000,000	\$3,347,350	71	58	779
05-07	\$8,000,000	\$7,700,000	128	74	1,459
07-09	\$10,300,000	\$9,579,000	74	117	1,853
09-11	\$1,000,000	\$975,000	25	12	148
Totals	\$27,050,000	\$25,351,350	370	290	4,941

Changes to Forest Riparian Easement Program

As the result of recommendations made to the Office of Financial Management and to the legislature in September 2010 (Appendices #2a and #2b), the 2011 Legislature passed Engrossed Substitute House Bill (ESHB) 1509 that made some amendments to the program as follows. The legislation:

- Defines and establishes eligibility for qualifying small forest landowners for the Forestry Riparian Easement Program. At the time compensation is offered for a forestry riparian easement, the landowner must be a small landowner.
- Removes non-profit organizations from program eligibility.
- Expands the definition for qualifying timber to include forest trees associated with an approved Forest Practices Application that cannot be harvested according to Forest Practices Rules on areas of potentially unstable slopes or landforms with the potential to deliver debris to a public resource or threaten public safety.
- Limits compensation for timber on potentially unstable slopes or landforms to \$50,000 for each landowner during a biennial funding period.
- Requires the DNR Small Forest Landowner Office to utilize no more than 50 percent of the funds to determine the value of the easement based on timber values on the date the complete Forestry Riparian Easement Program application is received.
- Changes the date the 50-year easement term will begin from the date the Forest Practice Application pertaining to the easement area is received to the date the completed easement application is received.

- Expands the authority for the DNR to reimburse qualifying landowners for the preparation costs to prepare a Forestry Riparian Easement (e.g. geotechnical reports, stewardship plans).
- Requires a method to collect reimbursement from the selling landowner to the DNR for the full Forestry Riparian Easement compensation if the easement land is sold to a non-qualifying landowner within the first 10 years of compensation.
- Directs the chair of the Forest Practices Board to form a group of stakeholders to investigate and recommend potential new long-term funding sources for Forestry Riparian Easement Program and report to the legislature by October 31, 2011. This group will disband after July 31, 2012.

With the passage of ESHB 1509 the state Department of Natural Resources will request the Forest Practice Board adopt a rule to amend the current Forestry Riparian Easement Program rule (WAC 222-21). This rule adoption process could take as long as 12 months through the Administrative Procedures Act before the Small Forest Landowner Office will have the procedures in place to acquire easements under the revised program. Meanwhile the office will continue to accept new applications as well as accomplish the task of determining easement values for as many applications as staffing levels allow.

5.3 Family Forest Fish Passage Program

The Washington State Legislature established the Family Forest Fish Passage Program (FFFPP) (RCW 76.13.150) in 2003. Eliminating fish passage barriers can be costly. The program was developed to provide regulatory and monetary relief for small forest landowners to comply with the Forests and Fish Rule requirement for fish passage barriers upgrades. The program is voluntary and allows small landowners to sign up to correct fish passage barriers on their road crossings with assistance from the program. The state provides 75- to- 100 percent of funding for the barrier correction. The program continues to be a success and has been recognized as a model for interagency cooperation and for assisting landowners. More information can be found at the [FFFPP website](#).

In general, the 2003 bill required that:

- Washington State create a cost-share program that would provide 75-100 percent of the cost of removing fish barriers on small forest landowner lands.
- Barriers be prioritized and repaired on a “worst-first” basis.
- Once a year, projects submitted to the program be prioritized, and fish barrier corrections providing the greatest benefit to public resources are funded. Lower priority projects remain in the program to be funded once they become higher priority and money is available.
- By signing up for the program, a landowner is relieved of any forest practices obligation to fix a fish passage barrier until funding is made available to complete the project.

Three state agencies and a stakeholder group cooperate to manage and fund the program:

- Washington State Department of Natural Resources (DNR) Small Forest Landowner Office is the main point of contact for program information, assisting landowners, providing outreach and coordinating additional funding sources.
- Washington State Department of Fish and Wildlife (WDFW) is responsible for evaluating the barrier, habitat quality of the stream, and ranking barriers for correction.
- The Washington State Recreation and Conservation Office (RCO) administers program funding and provides information on program contracts, billing and reimbursement.
- Washington Farm Forestry Association (WFFA) represents the small forest landowner community on the steering committee; providing program oversight and assisting with project approval.

WDFW Ranking of Fish Passage Barriers for the Family Forest Fish Passage Program

The program legislation (RCW 77.12.755) directs repair of worst barriers first starting with barriers lowest in the watersheds. To identify and prioritize the worst barriers, WDFW rates the barriers enrolled in the Family Forest Fish Passage Program (FFFPP) on the following criteria:

- Number of fish species benefiting
- Amount and quality of habitat opened
- Degree of fish barrier
- Number and location of other barriers and the degree of those barriers
- Concurrence from Lead Entity Watershed groups (groups that take the lead on salmon habitat recovery plans in the watershed)
- Cost effectiveness

Projects are scored to provide an initial list that is evaluated by the three state agencies; DNR, Recreation and Conservation Office, and WDFW. This information along with project cost estimates are provided to the Family Forest Fish Passage Program Steering Committee for final funding decisions.

Information on the fish passage barriers obtained from site visits is placed in the WDFW Fish Passage Barrier Inventory. The inventory includes those stream crossings that have been identified through Washington State Department of Transportation inventories, local government inventories, barriers identified in FFFPP stream surveys, and local inventories funded by the Salmon Recovery Funding Board.

Program Challenges and Opportunities

In addition to providing adequate funding, the two greatest challenges for the Family Forest Fish Passage Program are filling data gaps in the inventory information and getting the word out to constituents. DNR and cooperating partners continue to pursue funding for inventory related work. The office continues to be successful at obtaining grants to help offset state capital fund allocation for the program, receiving \$648,000 since 2010 for projects and barrier inventory work.

Data gaps occur when small forest landowners (particularly those who haven't harvested) don't recognize a fish passage barrier, and are not aware that there is a cost share program available to assist in repairing or replacing the barrier. These barriers may not be recognized until the landowner submits a Forest Practices Application. At that time, any fish passage barriers within the application area would be addressed.

The Small Forest Landowner Office has been operating without an outreach specialist for the majority of FY 2011, as a result of budget constraints. Consequently, outreach reporting seen in past annual reports is not available during this reporting period. However, the Fish Passage Team will continue outreach and collaboration efforts with regional fish enhancement groups, Farm Forestry groups, Tribes, the Natural Resource Conservation Service, conservation districts, and county extension offices. Program information often is included in collaborator groups' web pages, newsletters, press releases, and at public forums. In conjunction with the Washington State University extension program, presentations also have been provided at three family forest field days throughout the state. The Small Forest Landowner Office intends to fill the outreach position as soon as the budget will allow.

Coordination with Watershed Groups

Coordination with watershed lead entity groups is part of the Family Forest Fish Passage Program. These groups are contacted once a year and given information on the projects that have been determined as "Potential High Priority". For most watershed lead entity groups, the program is a complement to their projects. The Family Forest Fish Passage Program projects are not in the same footprint as lead entity group projects, which generally are located low in each watershed on lands not owned by small forest landowners.

Family Forest Fish Passage Program Accomplishments and Future Plans

The program has successfully completed many fish passage projects since its inception in 2003. Below is a table showing current fiscal year information and cumulative information for all projects since 2003. This table has been revised from previous reports primarily for the purposes of clarification.

Family Forest Fish Passage Program Accomplishments

Data Item	FY 2011	Cumulative Since 2003
# Eligible Applications	50	
# Eligible Sites	64	
# Projects Completed	27	193
# Miles Opened Up	82	500
Cost of Completed Projects	2,400,000	14,000,000

For the 2011 construction season, 39 barriers are planned for correction. This will open up 62 miles of habitat at a cost of approximately \$3.2 million. Due to decreased funding levels (\$2 million for the 2011-2013 biennium) only 9 projects have approved funding for the 2012 construction season.

5.4 Small Forest Landowner Office Reports

The 2010 Family Forest Fish Passage Program Implementation Report was produced during the summer of 2010. The report serves as a legislative accomplishments report and as a marketing tool to attract new landowners to apply for the program. The report is produced in concert with Recreation and Conservation Office and WDFW and is located at the [FFFPP website](#). A copy is also included in Appendix #3.

6. 20-Acre Exempt Riparian Forestland

6.1 Introduction

The 1999 Washington State Legislature exempted certain forestland parcels from some riparian protection measures in the Forest Practices Rules that resulted from the 1999 Forests and Fish Report. Exempt parcels include those that are 20 contiguous acres or less and are owned by individuals whose total ownership is less than 80 forested acres statewide. These parcels are commonly referred to as “exempt 20-acre parcels.” While not subject to some forest practices riparian protection rules, exempt 20-acre parcels must still provide protection for public resources in accordance with the Forest Practices Act.

In arriving at their permitting decisions, the Services concluded that they would condition the Incidental Take Permits regarding 20-acre exempt forest practices. Conditions include:

- Requiring leave trees be left along Type Np (non-fish-bearing, perennial) waters for riparian function.
- Providing eligibility criteria for coverage of 20-acre exempt parcels under the Incidental Take Permits.
- Defining coverage thresholds for 20-acre exempt parcels in each watershed administrative unit and water resource inventory area.
- Identifying certain spawning and rearing habitat of bull trout (also known as “Bull Trout Areas of Concern”) where Incidental Take Permit coverage may not apply.

6.2 Type Np Water Leave Tree Requirement

WAC 222-30-023(3) states that DNR will require trees to be left on Np (non-fish-bearing, perennial) waters on 20-acre exempt parcels where such practices are needed to protect public resources. Public resources are defined in WAC 222-16-010 as including water, fish, and wildlife. The Services concluded that leaving trees along Np waters is necessary in most situations. The Incidental Take Permits have a condition which states “permittee (Washington State) shall require trees to be left along Type Np waters under the 20-acre exemption unless such leave trees are not necessary to protect covered species (public resources) and their habitats.” In order to implement this Incidental Take Permit condition, a guidance memo was written September 26, 2006 and delivered to DNR region forest practices staff clarifying that “henceforth Forest Practices Applications should be conditioned to require leave trees along Type Np waters within exempt 20-acre parcels unless DNR determines this is not necessary”. See the 2007 Forest Practices HCP Annual Report for a copy of the guidance memo.

There were eleven Forest Practices Applications associated with 20-acre exempt parcels that had Type Np waters during FY 2011 (July 1, 2010 to June 30, 2011). Nine of the applications were either conditioned according to the Np guidance memo (which reflects WAC 222-30-023(3)) or did not propose harvest within 29 feet of the Np water.

6.3 Watershed Administrative Unit and Water Resource Inventory Area Thresholds

In the Incidental Take Permits, the Services defined permit coverage thresholds for watershed administrative units (WAU) and water resource inventory areas (WRIA). The Services placed a

10 percent threshold on cumulative reduction in riparian function as measured by the amount of recruitable large woody debris—such as snags and tall trees that could fall across a stream or other water body—available within a watershed administrative unit for 20-acre exempt parcels. Additionally, the Services placed a 15 percent stream length threshold within water resource inventory areas. The 15 percent threshold is based on the cumulative stream length of the affected streams within each WAU in the WRIA that has reached the 10 percent threshold. When a threshold within a watershed administrative unit or water resource inventory area is reached, subsequent Forest Practices Applications on 20-acre exempt parcels within those units or inventory areas will not be covered by the Incidental Take Permits unless the landowner chooses to follow standard Riparian Management Zone (RMZ) rules. Washington State has adopted a method, approved by the Services, to estimate cumulative percent reduction of potential large woody debris recruitment function, by watershed administrative unit, and percent cumulative stream length affected, by water resource inventory area.

6.4 Cumulative Reduction in Function Calculation Methodology

A formula called the Equivalent Area Buffer Index (Buffer Index) is used to estimate the percent reduction in function, as measured by potential large woody debris that could be recruited along fish bearing streams. The Buffer Index was developed for the Forest Practices Habitat Conservation Plan (Forest Practices HCP) [Environmental Impact Statement](#) (EIS) (USFWS et. al 2006) as a tool for comparing management alternatives in terms of the level of ecological function conserved through various management practices. The Buffer Index for large woody debris recruitment potential is a quantitative measure that evaluates the potential of a riparian area to provide trees and other woody debris across and into streams originating from tree mortality, windthrow and bank undercutting. It is expressed as a function of slope distance from the stream channel in relationship to tree height. The Buffer Index methodology takes into account management activities within the buffer zone. The Buffer Index value is determined based upon the ‘mature conifer curve of large woody debris recruitment potential’ by McDade et al (1990). It relates the cumulative percent of large woody debris recruitment with the distance from the stream bank in terms of tree height. The Environmental Impact Statement (EIS) for the Forest Practices HCP provides average Buffer Indexes for western and eastern Washington. These averages are used each year to estimate the potential cumulative reduction in large woody debris recruitment function from 20-ac exempt Forest Practices Applications submitted to DNR during the fiscal year.

An example explaining the Buffer Index formula follows:

- **Step 1** - Consider a fish-bearing or Type F stream in western Washington. The assumptions for this stream’s Riparian Management Zone include a Channel Migration Zone (CMZ) that is 10-feet wide, followed by a 50-foot core zone of forest along the stream, followed by a 60-foot inner forest zone in which a light selection harvest is assumed (30 percent volume removal), followed by a 45-foot outer zone in which a moderately heavy selection harvest is assumed (70 percent volume removal). This gives a total RMZ width of 155 feet including the 10-foot CMZ. The total RMZ width of 155 feet is based on an average of Site Class II and III areas $[(140+170)/2]$, which represent the most common site classes on forestland covered by the Incidental Take Permits.

- **Step 2** - Next, it is necessary to go to the McDade (1990) mature conifer curve. The McDade curve has been standardized for 155 feet, as the buffer distance that assumes full protection for the 100-year Site Potential Tree Height. This curve shows the cumulative percentage of large woody debris contribution in relation to the distance from the stream. In our example, we need to determine the percent of the total large woody debris contributed by the different RMZ zones (e.g., 0-10 feet, 10-60 feet, 60-120 feet and 120-165 feet). The values from McDade are 17 percent for the 0-10 foot zone, 62 percent for the 10-60 foot zone, 18 percent for the 60-120 foot zone, and 3 percent for the 120-165 foot zone.
- **Step 3** - The last step is to multiply the contribution percentage by the tree retention percentage for each RMZ zone, and sum them up.

$$(0.17 \times 1.0) + (0.62 \times 1.0) + (0.18 \times 0.7) + (0.03 \times 0.3) = 0.925$$

- **Step 4** – Results
Therefore, the RMZ on Type F streams in western Washington would provide for an estimated 92.5 percent of large woody debris recruitment potential, given the assumption that full recruitment potential is achieved at a buffer width equal to the 100-year Site Potential Tree Height.

Annual in-office calculations of reduction in function

An estimate of potential reduction in function by watershed administrative unit is calculated annually and reported in the Forest Practices HCP annual report. The impact is “potential” because the calculations are based on “proposed” harvests, not “completed” harvests and estimates of stream impact are made in-office from information supplied on the Forest Practices Application (FPA), not on-the-ground measurements. Average Buffer Index values are used to calculate the overall possible reduction in function by watershed administrative unit. The average Buffer Index values used for the annual report calculations are taken from the Forest Practices HCP EIS (Appendix B page B-28). These average Buffer Index values were obtained through modeling harvests based on both Forests and Fish Rules, and pre-Forests and Fish Rules. Many assumptions went into the modeling effort including degree of harvest, width of riparian area, stream width, etc. An end result of the harvest modeling was the development of average values for an overall Buffer Index for eastern and western Washington for harvests complying with Forests and Fish Rules, as well as with pre-Forests and Fish Rules.

The EIS average Buffer Index values for Forests and Fish Rules are used in our calculations without modification; however, an additional 15 percent was added to the EIS average Buffer Index values for pre-Forests and Fish Rules because the 1999 Salmon Recovery Act required 20-acre exempt landowners to protect an additional 15 percent of riparian trees above pre-Forests and Fish Rules. The average reduction in function value was calculated by subtracting the pre-Forests and Fish Rules Buffer Index values from the Forests and Fish Rules Buffer Index values for a percent reduction in function. Below are the Buffer Index values and reduction in function factors used for the Forest Practices HCP Annual Report.

Buffer Indexes for Western Washington:

Buffer Index average for Forests and Fish Rules = 0.93

Buffer Index average for Rules prior to Forests and Fish = 0.60

Buffer Index average for 20-acre exempt rules = 0.60 x 1.15 = 0.69

Average Reduction in function factor = 0.93 – 0.69 = 0.24

Buffer Indexes for Eastern Washington:

Buffer Index average for Forests and Fish Rules = 0.91

Buffer Index average for Rules prior to Forests and Fish = 0.67

Buffer Index average for 20-acre exempt rules = 0.67 x 1.15 = 0.77

Average Reduction in function factor = 0.91– 0.77 = 0.14

The estimated number of feet of fish bearing stream potentially affected by Forest Practices Applications is tracked throughout the year. The total number of feet in each watershed administrative unit is calculated for the fiscal year and then multiplied by 0.24 in western Washington and 0.14 in eastern Washington to derive the number of feet of large woody debris recruitment reduction in function. These numbers are summed over the years and then divided by the total fish bearing stream length in the watershed administrative unit to determine potential percent cumulative reduction in function.

During the 50-year permit period, if the 10 percent threshold is reached within a watershed administrative unit, all subsequent 20-acre exempt landowners submitting a Forest Practices Application will be informed that their forest practice will not be covered by the Incidental Take Permits unless the landowner chooses to use standard Riparian Management Zone buffers.

The following table contains the cumulative in-office estimates of reduction in function by watershed administrative unit for the time period of June 5, 2006, to June 30, 2011. A visual representation of the 20-acre Exempt Forest Practices Applications accounted for in the following table can be found in Appendices #4a and #4b. The two maps in these appendices show the location of the 20-acre exempt applications for FY 2011 and the location of all 20-acre exempt applications since June 2006. Maps showing 20-acre exempt Forest Practices Applications in previous fiscal years can be found in previous Forest Practices HCP annual reports.

Estimated Potential Percent Loss of Large Woody Debris Recruitment Potential, by Watershed Administrative Unit	
Watershed Administrative Unit	% Reduction in LWD Function in WAU
Abernathy	0.0103
Acme	0.0519
Antonie Creek	0.0187
Bangor-Port Gamble	0.0469
Bellingham Bay	0.0243
Bogachiel	0.0326
Blanchard Creek	0.0401
Bunker Creek	0.0859
Carpenter	0.0178

Estimated Potential Percent Loss of Large Woody Debris Recruitment Potential, by Watershed Administrative Unit	
Watershed Administrative Unit	% Reduction in LWD Function in WAU
Cathlapotl	0.0556
Cedar Creek/Chelatchie Creek	0.2441
Chehalis Slough	0.1616
Chinook	0.0214
Church Creek	0.3326
Coal Creek	0.0924
Colvos Passage/Carr Inlet	0.0640
Connelly	0.1657
Corkindale	0.0450
Cottonwood Creek	0.0173
Cowlitz River/Mill Creek	0.0842
Damfino/Diobsud Creek	0.1438
Davis Creek	0.0055
Day Creek	0.2473
Deadman Creek/Peone Creek	0.1259
Delameter	0.0048
Delezene Creek	0.0551
Discovery Bay	0.0134
Dragoon Creek	0.0307
Drayton	0.2115
Dyes Inlet	0.1312
East Creek	0.0311
East Fork Humptulips	0.0994
EF Satsop	0.0054
Electron	0.0211
Elk River	0.0073
Everett	0.0489
French-Boulder	0.0375
Friday Creek	0.7286
Gibson Ck.	0.0471
Gilligan	0.0950
Grays Bay	0.0338
Haller Creek	0.0430
Hansen Creek	0.2059
Harstine Island	0.1057
Hoko	0.0037
Hope Creek	0.0130
Horseshoe Falls	0.2273
Huckleberry Creek	0.0192
Hutchinson Creek	0.0927
Independence Creek	0.1520
Johns River	0.0524
Kiona	0.0863
L.Snoqualmie River/Cherry Creek	0.0050
Lacamas	0.0599
Lacamas Lake	0.1424

Estimated Potential Percent Loss of Large Woody Debris Recruitment Potential, by Watershed Administrative Unit	
Watershed Administrative Unit	% Reduction in LWD Function in WAU
Lake Merwin	0.0993
Lake Whatcom	0.0700
Little Deep Creek	0.0456
Little Spokane/Deer Creek	0.0380
Little Washougal	0.1062
Long Beach	0.0855
Lost Creek	0.9051
Lower Chehalis/Elizabeth Creek	0.0128
Lower Coweeman	0.0960
Lower Cowlitz	0.0019
Lower Dosewllips	0.1723
Lower Humptulips River	0.0213
Lower Kalama	0.0545
Lower Naselle	0.0226
Lower NF Stilly	0.0279
Lower Newaukum	0.2808
Lower Pilchuck Creek	0.1077
Lower Pilchuck river	0.1036
Lower Skokomish	0.0658
Lower Willapa	0.1539
Lynch Cove	0.0238
Mashel	0.0167
Mason	0.0647
MF Satsop	0.0336
Middle Humptulips	0.0186
Mill Creek	0.0186
Mill Creek/Clugton Creek	0.0319
Mitchel	0.0377
Mox Chehalis	0.1067
Mt Zion	0.0318
Nemah	0.0375
NF Granite Creek	0.0340
Nineteen Creek	0.1897
North Headwaters	0.0492
North-Middle Forks Deer Creek	0.0328
Olequa	0.1722
Ostrander	0.2156
Otter Creek	0.0406
Packwood Lake	0.1483
Patit Creek	0.0518
Pend Oreille/Cedar Creek	0.0398
Pilchuck Mtn.	0.0134
Porter Canyon	0.0305
Quilceda Creek	0.1820
Quillisascut Creek	0.1263
Quinault Lake	0.1143

Estimated Potential Percent Loss of Large Woody Debris Recruitment Potential, by Watershed Administrative Unit	
Watershed Administrative Unit	% Reduction in LWD Function in WAU
Rock Creek	0.0819
S. Sinclair Inlet	0.0261
Salmon Creek	0.0455
Salt Creek	0.1979
Samish Bay	0.0904
Samish River	0.0932
Satsop	0.0739
Scatter Creek	0.0113
Sekiu	0.0216
SF Skokomish	0.0610
SF Skykomish River	0.0201
SF Willapa	0.0170
Silverlake	0.0741
Smith Creek	0.0214
Squaticum Creek	0.0709
St. Peter-Lambert	0.0248
Stillaguamish Flats	0.0163
Sultan River	0.0175
Sumas River	0.0472
Sutherland Aldwell	0.1677
Tacoma Creek	0.1030
Tanwax Creek	0.0415
Toandos Peninsula	0.0336
Toutle River	0.0750
Upper Chehalis/Rock Creek	0.0092
Upper Coweeman	0.0328
Vancouver	0.2007
Vashon Island	0.0502
Vedder	0.7609
Vesta Little N.	0.0054
Whidbey Island	0.1167
Winston Creek	0.0236
W. Kitsap	0.0077
Wishkah Headwaters	0.0812
Woodland Creek	0.1990
Woods Creek	0.0444
Wynochee River System	0.0097
Yacolt	0.1269
Yelm Creek	0.0551

The table above shows estimated percent of loss of potential large woody debris recruitment in each watershed administrative unit containing one or more Forest Practices Applications over the five year time period of the Incidental Take Permits. There are a total of 846 watershed administrative units in the state of which 140 have some measure of reduction in potential recruitment function. Currently, in-office calculations indicate that each watershed

administrative unit has less than one percent cumulative reduction in function. The largest possible impact is in Lost Creek Watershed Administrative Unit which only has a total of 23,172 feet of fish-bearing stream length in the entire watershed administrative unit. In-office calculations of proposed Forest Practices Applications show a possibility of 0.9 percent potential reduction of large woody debris recruitment function in Lost Creek Watershed Administrative Unit. There are two watershed administrative units that indicate a potential of 0.7 percent reduction in function, one at 0.3 percent, eight at 0.2 percent and twenty-six at 0.1 percent. All other watershed administrative units listed in the above table show the possibility of less than 0.1 percent reduction in function since the 2006 issuance of the Incidental Take Permits.

6.5 Data Collection for Watershed Administrative Unit Threshold Reduction in Function within Watershed Administrative Units

An ongoing field review was initiated in September 2008 on a subset of 20-acre exempt Forest Practices Applications to help verify that the in-office method for estimating reduction in function is sufficient. The field review also serves to ground-truth what is actually happening on the application sites. State Forest Practices staff collect data during routine compliance visits to the application sites—including width of RMZ, percent of trees left after harvest, and length of RMZ.

Since September 2008, 76 20-acre exempt Forest Practices Applications have been visited during normal compliance activities. In FY 2011, staff visited 25 application sites that had Riparian Management Zones along a total of 12,325 feet of fish bearing stream. The 2010 - 2011 field visits showed no harvest in the 20-acre exempt riparian area on 9,825 feet or 79 percent of the 12,325 feet. Cumulatively, since September 2008, field visits show no harvest within the Riparian Management Zones along 74 percent of the 41,271 feet of fish bearing stream length found in the 76 forest practices applications visited. The field reviews seem to indicate that landowners are leaving more trees in riparian areas than was predicted when the Environmental Impact Statement Buffer Index averages were calculated. The field data for 20-acre exempt applications is recorded on an ongoing basis and reported annually.

The Forest Practices Compliance Monitoring Program collected additional field data on 20-acre exempt Forest Practices Applications during the 2008 field season. The [2008/2009 Forest Practices Compliance Monitoring Report](#), issued February 2011, contains a summary of the collected data for 20-acre exempt landowner applications. Unlike the on-going in-office calculations (described above) which calculate potential harvest effect of recruitable large woody debris and the on-going field visits (also described above) which look at percent trees harvested in the riparian area, this Compliance Monitoring Program report compared all forest practices actually conducted on the application site to the proposed forest practices as stated on the Forest Practices Application. Forty-five applications were assessed with 62 percent found to be in compliance with the application (Washington DNR, 2011). The data indicated that what the landowner planned to do on the Forest Practices Application was not always what was implemented. A compliance action plan was developed, based on the findings that were captured in the 2008/2009 Compliance Monitoring Program report and then presented to the Forest Practices Board in May 2011. The action plan included proposed actions for areas requiring further attention, including 20-acre exempt applications. The proposed actions were intended to

help improve compliance rates for their respective focus areas. Proposed actions for 20-acre exempt Forest Practices Applications include the following:

- Add approval condition on each 20-acre exempt riparian harvest FPA that the applicant must notify the forest practices program 48-hours prior to beginning harvest operations,
- Forest practices forester will make a minimum of two on-site evaluations during active period of FPA,
- Continue compliance monitoring surveys of 20-acre exempt harvests.

For more detail see compliance action plan document in Appendix #5.

Cumulative Stream Length for Water Resource Inventory Areas (WRIAs)

A fish-bearing stream baseline length was calculated for all water resource inventory areas. As in-office calculations indicate that watershed administrative units may be reaching the 10 percent threshold, the State will compare the total stream length in each watershed administrative unit to determine when the 15 percent threshold could possibly be reached for the water resource inventory area. DNR then will inform landowners that subsequent Forest Practices Applications associated with 20-acre exempt parcels within the water resource inventory area no longer will be covered by the Incidental Take Permits, unless individual landowners choose to apply standard Riparian Management Zone rules on their 20-acre exempt forest practice. Currently, there are no watershed administrative units that show a possibility of being near the 10 percent threshold for reduction in function; therefore, no areas currently are at risk for reaching the 15 percent stream threshold.

6.6 Bull Trout Areas of Concern

The Services conditioned the Incidental Take Permits regarding specific identified spawning and rearing habitat areas for bull trout. These areas are of concern because of extremely low populations of bull trout. The condition states that a forest practice which qualifies for and uses the 20-acre exempt riparian rules and falls within these bull trout areas of concern will not be covered by the Incidental Take Permits unless the forest practice is shown to not measurably diminish the level of riparian function. The function is measured by potential large woody debris recruitment and is compared to the level of function that would have been provided by the standard Forest Practices Rules. The State and Services together developed a process to track forest practices in these bull trout areas of concern. The process was described in the [2009 Forest Practices HCP Annual Report](#) (DNR 2009).

There were no Forest Practices Applications associated with 20-acre exempt parcels in the bull trout areas of concern during the reporting period from July 1, 2010 through June 30, 2011.

6.7 20-Acre Exempt Forest Practices Application Data

Of the 5,219 Forest Practices Applications processed throughout the year, 4,222 were approved; and of those 97 were new, approved 20-acre exempt applications adjacent to fish-bearing streams.

Number of 20-acre Exempt Forest Practices Applications for FY 2011

Total # of 20-acre forest practices applications with fish-bearing water	97
Total # of 20-ac exempt forest practices applications that were conversions with fish-bearing water	5
Total # of 20-ac exempt forest practices applications with fish-bearing water that were not conversions	92
Total # of 20-ac exempt forest practices applications that were in Bull Trout Areas of Concern	0

Twenty-acre exempt non-conversion applications along fish-bearing water comprised approximately 2.2 percent of all approved applications submitted during the 2010-2011 reporting period. This percent was calculated with non-conversion 20-acre Forest Practices Applications. Previous reports included conversion 20-acre exempt applications in the percent calculations. Future reports will not include conversion 20-acre applications in the calculation because the Incidental Take Permits do not cover forest practices applications that are conversions.

7. Alternate Plans, Rivers and Habitat Open Space Program

7.1 Introduction

This chapter provides information about two areas of interest to the Services – Alternate Plans, and the Rivers and Habitat Open Space Program. Alternate Plans are forest practices plans that deviate from standard forest practices rules but provide public resource protection equal in overall effectiveness as the standard rules. The Rivers and Habitat Open Space Program is an incentive program provided to landowners for trees left unharvested in channel migration zones and habitat of upland threatened and endangered species.

7.2 Alternate Plans

An Alternate Plan is a tool forest landowners can use to develop site-specific management plans for forest practices regulated under the Forest Practices Act. An Alternate Plan may deviate from the standard Forest Practices Rules, as long as the plan provides public resource protection at least equal in overall effectiveness to the protections afforded by the Act and rules. WAC 222-12-0401 describes the Alternate Plan process, including the review by interdisciplinary teams.

The following table shows the number and status of forest practices applications submitted that included an Alternate Plan during the period from July 1, 2010 to June 30, 2011:

Forest Practices Applications with Alternate Plans during FY 2011

Landowner Type	Status of Forest Practices Applications with Alternate Plans				Total
	Approved	Disapproved	In Review	Closed Out*	
Large	43	6	3	2	54
Small	54	5	4	4	67
Total	97	11	7	6	121

***Closed Out** means that the applicant has withdrawn the Forest Practices Application.

7.3 Rivers and Habitat Open Space Program

Like the Forestry Riparian Easement Program (see chapter 5), the Riparian Open Space Program was a product of the 1999 Forests and Fish Law (Engrossed Substitute House Bill 2091). It was codified in the Forest Practices Act (chapter 76.09 RCW) and adopted as a rule in chapter 222-23 WAC. The 2009 Washington State Legislature passed a new bill (HB 5401) that amended the Riparian Open Space Program. The bill, signed into law, changed the name of the program to Rivers and Habitat Open Space Program to reflect the changes to the law. The Forest Practices Board adopted the revised rule which is effective as of June 19, 2011. The Rivers and Habitat Open Space Program differs from the Forestry Riparian Easement Program in that it is available to all forest landowners, not just small forest landowners. From its inception to the end of the 2007-2009 Biennium, the program was administered through DNR Asset Management and Protection Division. With the 2009 changes, the program now is administered through DNR Forest Practices Division.

The Rivers and Habitat Open Space Program helps ensure the long-term conservation of aquatic resources and upland habitats. The program acquires conservation easements on lands and timber within a specific type of channel migration zone known as an “unconfined channel migration zone.” It also acquires easements to conserve habitat of threatened and endangered species.

A channel migration zone is the area where the active channel of a stream is prone to move in the near term. Unconfined channel migration zones are generally larger water bodies, have less than 2 percent gradient and are found in a valley more than four times wider than the bank-full width of the channel. These areas typically have very high ecological value as spawning and rearing habitat for salmon and other fish species. Under the Forest Practices Rules, no timber harvesting or road construction may occur within channel migration zones due to their ecological importance.

The Forest Practices Rules protect critical habitat of 10 upland species, 2 of which are the northern spotted owl and the marbled murrelet. Critical habitat is a designation that makes a special effort to protect the important characteristics that will assist in the recovery of the threatened or endangered species. Landowners that own forest land that is determined to be critical habitat for these species are eligible to grant to the State a perpetual conservation easement under the Rivers and Habitat Open Space Program.

DNR screens applications, prioritizes qualifying applications, and acquires conservation easements based on available funding. There was no money allocated for the Rivers and Habitat Open Space Program for the FY11-13 funding period. When funding becomes available, applications for channel migration zones will be prioritized separately from applications for habitat of threatened and endangered species. Applications will be prioritized based on conservation benefits and landowner management options.

The following chart shows the budget allocated by the Washington State Legislature for the Rivers and Habitat Open Space Program, and the acres purchased since program inception.

Rivers and Habitat Open Space Program Budget and Acres Purchased

Fiscal Year	Budget Allocated	Amount Spent	Number of Transactions	Acres Purchased
01-03	\$1,000,000	\$1,000,000	3	387
03-05	\$1,000,000	\$500,000	5	197
05-07	\$2,000,000	\$0	0	0
07-09	\$2,200,000	\$2,200,000	4	339
09-11	\$500,000	\$460,000	4	119

The \$500,000 left over from FY03-05 was reallocated for FY05-07. All of the \$2 million from FY05-07 was reallocated for FY07-09. There were no transactions for FY05-07 because applicants withdrew due to values lower than anticipated, or lands that were not eligible. There were 11 applications for FY09-11, of which eight were eligible. DNR assembled a Technical Selection Committee that determined the priority of funding of the eligible applications for the \$500,000 allocated for the FY09-11 funding period.

8. Compliance Monitoring Program

8.1 Introduction

Compliance monitoring is an important element of the Forest Practices HCP. One of DNR's responsibilities is to ensure that operators and landowners are complying with the Forest Practices Rules when conducting forest practices activities. According to WAC 222-08-160 (4), "DNR shall conduct compliance monitoring that addresses the following key question: 'Are forest practices being conducted in compliance with the rules?' DNR shall provide statistically sound, biennial compliance audits and monitoring reports to the Board for consideration and support of rule and guidance analysis. Compliance monitoring shall determine whether forest practices rules are being implemented on the ground. An infrastructure to support compliance will include adequate compliance monitoring, enforcement, training, education and budget."

The objective of the compliance monitoring program is to determine if forest practices are being conducted in compliance with the Forest Practices Rules *in effect at the time the activity was conducted*. To reach this end, the goals of the Compliance Monitoring Program are as follows:

- Develop methods to streamline and maintain a cost-effective field compliance monitoring process.
- Provide relevant and accurate information to the Board and the Adaptive Management Program (AMP) to modify or to clarify the rules in order to improve compliance.
- Identify opportunities to provide education (especially for complex Forest Practices Rules categories) for regulators, landowners, consultants, and operators as suggested by non-compliance rates.
- Provide information for rule and Forest Practices Board Manual revision if necessary.
- Provide results to the Services and the Washington State Department of Ecology, where applicable.

The framework for the Compliance Monitoring Program includes the following components:

- The results must be credible and defensible.
- The program will develop sampling methods, sample size, selection criteria, and reporting format.
- The sampling design will provide required information over time.
- The program must be sustainable, adjustable, easily understood, and manageable.

The program is administered by a Compliance Monitoring Program Manager and is staffed by this manager and a program specialist. The program relies on assistance from the Washington State Departments of Ecology and Fish and Wildlife, and the Tribes to assist with field assessments and data collection.

Additional guidance is provided by the Compliance Monitoring Stakeholder Committee which includes representatives of the DNR, WDFW, Ecology, tribes and tribal organizations, Washington Forest Protection Association, and the Conservation Caucus. This forum meets regularly and provides advice on:

- Clarification of rule elements when questions arise,

- Consistent implementation of program protocols, and
- Consensus recommendations from the committee on steps for Compliance Monitoring Program improvement.

8.2 Compliance Monitoring Program Design

In 2006, an internal working group led by DNR and consisting of representatives from DNR's Forest Practices Program, Ecology, and WDFW completed a compliance monitoring program design (Washington DNR, 2010) focusing on Riparian Management Zone (RMZ) rules for all typed waters and road activities. The program design also included a detailed protocol for field assessments, field form revisions, and data collection templates.

The Forest Practices Board recommended that the department, under the supervision of the Adaptive Management Program Manager, conduct a Technical Review of the program design. Five reviewers were selected that had operational monitoring experience and the report results were presented to the Board in February of 2008.

In response to the review, three significant changes to sampling were implemented for 2008-2009. The first was adding a protocol to capture observed differences between water type classification at approval and at the time of the compliance review. This was instituted at the request of the Forest Practices Board because of the frequency of perceived differences between the stream type approved as part of the Forest Practices Application and what was actually being seen on the ground during reviews (2006-2007 sampling seasons) (Washington DNR, 2009). The effort is an approach to quantify the extent of the issue. Secondly, compliance with the rules as they are applied on the ground is now assessed in addition to compliance with what was stated on the approved application; this allows a comparison of differences where the two are not the same. The third change was to modify the Forest Practices Application selection strategy to sample each DNR region proportional to their representation in the entire population of applications statewide. This is to assure representation of each region in the sample.

In addition, DNR contracted with a professional statistician to refine the statistics. The program design was revised for each sampling season 2009 through 2011 to accommodate emphasis samples and improve sampling effectiveness. In each case the statistician reviewed and approved the designs.

8.3 Highlights of the Compliance Monitoring Program

The *Biennium 2008-2009 Compliance Monitoring Summary Report* was published in February 2011. This and previous [biennial reports](#) summarize results for two-year periods in which randomly selected and approved Forest Practices Applications were assessed for compliance with the Forest Practices Rules. The monitoring is conducted by professional foresters, geologists and biologists from DNR, Ecology, state Fish and Wildlife, and several tribes and tribal organizations in survey teams of up to four or five members. Landowners are invited to attend the field assessments.

The study design for 2008-2009 focused on Riparian Management Zone (RMZ) rules for all typed waters (WAC 222-30) along with Road Construction and Maintenance rules (WAC 222-24) applied at the Forest Practices Application site. Additionally, the design also included a

sample for determining compliance with rules providing for wetland protection (WAC 222-30). Additional emphasis samples examined two smaller populations of applications: Alternate Plans and Exempt 20-Acre Parcels.

The sampling strategy evaluates each activity as a whole determining whether the activity was completely compliant or if any part of it was non-compliant. Compliance percentage rates were calculated dividing the number of compliant activities by the total number assessed as compliant or non-compliant. Additionally, those found non-compliant were assigned a severity rating of Minor, Moderate or Major, indicating the level at which enforcement action would be considered. All non-compliant activities, regardless of the severity rating, are included in the non-compliant total.

The results found that road-related compliance with approved Forest Practices Applications was 79 percent and riparian/wetland activities were 78 percent compliant with approved applications. The rates were not significantly different than observed the previous biennium. For the emphasis samples, Alternate Plans were determined to be 84 percent compliant, but the Exempt 20-Acre Parcel riparian harvests were 62 percent compliant. Both these activity types combined occur on fewer than 5 percent of all applications.

The compliance team also recorded water types to determine if the stream types observed by the compliance team were the same as the types recorded on the approved Forest Practices Applications. Findings showed about 31 percent of observed stream reaches by the compliance team had features that suggested disagreement with the water type stated in the application. The differences included differences in the width category of Type F streams and stream type categorization differences across all types.

The report resulted in DNR Forest Practices Division procedural changes in how DNR forest practices staff in the regions are to deal with Forest Practices Application approval and post-approval monitoring. See Appendix #5.

The 2010-2011 Standard Sample effort is again focused on Riparian Management Zone rules for all typed waters (WAC 222-30) and Road Construction and Maintenance rules (WAC 222-24). Additionally, emphasis samples will be implemented to assess the Water Type Classification differences following procedural changes instituted after the 2008-2009 report. Also newly implemented is a haul route assessment sample.

8.4 Future Plans for the Compliance Monitoring Program

Currently the program is reviewing emphasis areas and protocol changes for the 2012 field season. Program staff is working with sister agencies to be able to improve the characterization from compliant/non-compliant to yield more information about the nature of the activity compliance. Expanding observations to detect reasons why events of non-compliance occur is a high priority to maintain program relevancy. Any new approaches will be reviewed by the Compliance Monitoring Stakeholder Committee for recommendations and changes.

8.5 Funding

On an ongoing basis, the Forest Practices Program actively seeks state funding from the legislature and support from the program's partners to effectively implement the Compliance Monitoring Program. DNR has received funds from the Legislature since 2005 that allows the Departments of Ecology and Fish and Wildlife to assist DNR in the compliance monitoring efforts. The legislature reduced funding for Forest Practices as a whole in the last two biennia and Compliance Monitoring is sharing in those reductions. Participation grants have been cut and some emphasis sampling is being postponed to accommodate competing priorities in the Forest Practices Program.

9. Road Maintenance and Abandonment Planning for Large Forest Landowners

9.1 Introduction

Forest Practices Rules include a Road Maintenance and Abandonment Program to help prevent sediment and hydrology-related impacts to public resources such as fish and water quality and to fix fish passage barriers. The Road Maintenance and Abandonment Plan (RMAP) rules require large forest landowners to plan and schedule all of the work needed on their lands necessary to improve and maintain their forest roads to meet standards specified in chapter 222-24 WAC. In an effort to minimize the economic hardship on small forest landowners, the 2003 Washington State Legislature passed a RMAP bill (HB1095) that modified the definition of “small forest landowner” and clarified how the RMAP requirements applied to them. Small forest landowners have the option to submit a “checklist” RMAP with each Forest Practices Application or Notification, rather than to provide a plan for their entire ownership.

Large forest landowners were required to have all roads within their ownership covered under a DNR-approved Road Maintenance and Abandonment Plan (WAC 222-24-051) by July 1, 2006 and to bring all roads into compliance with forest practices standards by July 1, 2016. This includes all roads that were constructed or used for forest practices after 1974. An inventory and assessment of orphaned roads (i.e., forest roads and railroad grades not used for forest practices since 1974) must also be included in the plan. Forest Practices Rules require large forest landowners to prioritize road maintenance and abandonment work based on a “worst first” principle – starting with road systems where improvements would produce the greatest benefit for public resources. Within each plan, maintenance and abandonment work is prioritized as follows:

- Remove blockages to fish passage,
- Prevent or limit sediment delivery,
- Correct drainage or unstable sidecast in areas with evidence of instability that could adversely affect public resources
- Disconnect the road drainage from typed waters,
- Repair or maintain roads that run adjacent to streams,
- Minimize road interception of surface and ground water.

9.2 Extension of RMAP Deadline

The Forest Practices Board (the Board) is considering amending WACs 222-24-050 and 222-24-051 to allow forest landowners to extend the deadline for completing the road work scheduled in their RMAPs. This rule making is the outcome of an Adaptive Management Program recommendation to the Board on August 10, 2010. The rule change would allow for an extension of the deadline for up to five years, or until 2021. The original completion date of July 1, 2016 (15 years from the effective date of the 2001 Forests and Fish Rule) was based on an estimate of the time landowners would reasonably need to fund and accomplish their road improvements. While landowners have made substantial progress in meeting their RMAP commitments, the Board is considering this rule amendment because of the financial hardship forest landowners

have experienced since the 2008 economic downturn and its effect on home construction and timber prices. Landowners depend on the revenue from timber harvests to accomplish their road improvements. On May 10, 2011, the Board approved the draft rule proposal for public review and will consider adopting the rules on August 9, 2011. The draft rule language and additional information about the RMAP extension process can be found at http://www.dnr.wa.gov/Publications/bc_fp_materials_20110510.pdf.

In addition to the Board's rule-making efforts, during this reporting period the Forest Practices Program has evaluated how RMAP data is collected, evaluated, and reported. Particular attention is focused on implementation consistency and standardization including even-flow and worst-first assessment and tracking. Results from this in-depth evaluation identified a number of areas where the program can make improvements:

- Apply consistent interpretation of accomplishment reporting elements,
- Standardize data collection methods,
- Create a statewide Geographic Information System (GIS) database for RMAP information, tracking, and reporting purposes for fish passage barriers,
- Improve data sharing and transparency,
- Add two additional accomplishment reporting elements in order to provide a baseline for improving evaluation of even-flow:
 - Total number of fish passage barriers identified,
 - Total number of forest road miles identified needing improvement.

The Forest Practices Program is planning to have the standardized data collection methods and the GIS database finalized and operational by early 2012.

The Board also is considering amendments to Board Manual Section 3 *Guidelines for Forest Roads*, which will explain requirements and processes in the RMAPs program.

9.3 Road Maintenance and Abandonment Plan Implementation

The following three tables, *Statewide Road Maintenance and Abandonment Plan Accomplishment Report 2001-2010*; *Statewide Cumulative Road Maintenance and Abandonment Plan Accomplishment Report*; and *Fish Passage Barrier Information for Large Landowners* detail the progress that's been made by forest landowners from July 2001 until December 2010. The information provided in the tables is derived from data supplied by landowners as part of their annual accomplishment review. Following the *Statewide Road Maintenance and Abandonment Plan Accomplishment Report 2001-2010* is a description of each reporting element. In addition, several of the descriptions include reasons why some reporting element numbers fluctuate as well as providing more in-depth information on why earlier accomplishment reports differ from this report.

Statewide Road Maintenance and Abandonment Plan Accomplishment Report 2001-2010

DNR Region	Number of approved RMAPs	Miles of forest road assessed	AVAILABLE 2012 REPORT	Miles of road improved	Miles of road abandonment	Miles of orphaned roads	Number of fish passage barriers identified	Number of fish passage barriers corrected	Approximate miles of fish habitat opened	Total # of RMAP Checklists from small forest landowners
			Miles of forest road identified needing improvement							
Northeast	89	7,625		4,936	302	96	844	633	317	2,535
Northwest	21	5,841		2,285	1,008	650	585	254	89	1,528
Olympic	22	7,648		1,288	114	353	1,307	524	280	768
Pacific Cascade	97	21,942		7,215	608	717	3,067	1,674	722	3,135
South Puget Sound	18	7,886		890	409	246	593	344	171	700
Southeast	15	6,500		1,861	474	271	629	340	193	521
Statewide Totals	262	57,442		18,475	2,915	2,333	7,025	3,769	1,772	9,187

The content of this table is based upon data provided by landowners who are responsible for the facts and accuracy of the information presented herein.

Note:

In 2008, in order to get a sense of overall RMAP accomplishment, Large Forest Landowners with approved RMAPs made a good-faith effort to quantify the number of forest road miles needing improvement. DNR began reporting this number in the 2009 Forest Practices HCP Annual Report and calculated an annual accomplishment rate in subsequent reports. As described below under *Miles of Road Improvement* (and in the 2009 Annual Report) there were limitations with the data. Beginning with the 2011 RMAP reporting cycle (January 1, 2011 to December 31, 2011), landowners will provide a new data element — “*miles of forest road identified needing improvement*” — which will be incorporated in the Forest Practices HCP annual report and will replace the road miles that were initially reported in the 2009 report.

Reporting Elements

Number of Approved RMAPs

The number of approved RMAPs represents those plans submitted mostly by large forest landowners. Many large landowners have more than one RMAP. There currently are 18 landowners with approved plans that meet the definition of a small forest landowner and have chosen (in writing) to continue to follow their pre-2003 submitted RMAP, or have decided to submit a plan as described in 222-24-0511(2). This does not include land previously owned by a large landowner covered under an approved RMAP, which has been sold to a small forest landowner that chooses not to continue/implement the plan.

Previously, this number was reported as either:

- 1) the total number of landowners having an approved RMAP (i.e., 11 landowners within one region would equal 11 RMAPs), or
- 2) the total number of approved RMAPs (i.e., 11 landowners within one region, each having 3 separate RMAPs, would equal 33 RMAPs).

Beginning in reporting year 2010 (compiled and reported the next spring), and thereafter, this number is reported as 'Number of approved RMAPs'. The program chose this reporting strategy due to the importance of monitoring and tracking the number of approved plans rather than the number of landowners.

The number of approved RMAPs is dynamic in nature and can change over time. Large landowners may have one RMAP for large holdings or multiple RMAPs covering several blocks within the large holding. A landowner may choose to change their strategy on the number of RMAPs they manage. Property transactions can lead to an increase or decrease in the number of approved RMAPs. Small landowners that decide to discontinue their plan and obtain a checklist would result in a decrease of RMAPs reported. Another reduction in the number may be due to a large forest landowner's decision to discontinue or reduce the amount of harvest, and submit a request to be released from the program due to qualifying as a small forest landowner (WAC 222-16-010).

Miles of Forest Roads Assessed

Landowners arrived at this number by conducting an inventory and assessment of all forest roads contained within a specific RMAP. This number includes roads that meet Forest Practices Rule standards as well as those that need to be improved.

This information currently may be incomplete. The program is working with landowners to ensure this reporting element is complete in future reports. Once data are confirmed to be complete, it is not expected to fluctuate significantly over time.

Miles of Forest Road Identified Needing Improvement

To date, this reporting element has not been formally tracked. In 2008, in order to get a sense of overall RMAP accomplishment, large forest landowners with approved RMAPs made a good-faith effort to quantify the number of forest road miles needing improvement. As described below under *Miles of Road Improvement* (and in the 2009 Annual Report) there were limitations with the data. DNR will work with landowners to obtain this information and have it available for the 2012 accomplishment report.

Miles of Road Improvement

For Road Maintenance and Abandonment Plan purposes, an improved road or road segment is defined as locations where actions have been taken to address issues associated with:

- a) fish passage;
- b) delivery of sediment to typed waters;
- c) existing or potential slope instability that could adversely affect public resources;
- d) roads or ditch lines that intercept ground water, and
- e) roads or ditches that deliver surface water to any typed waters.

The improvements are to meet the current Forest Practices Rule requirements and are identified in the landowner plan, or subsequently discovered within the time period associated with an approved RMAP.

DNR began reporting this number in 2008 for the 2009 Forest Practices HCP Annual Report. This reporting element has been difficult to calculate, leading to data inconsistencies. In addition to inconsistencies in how road improvement miles were measured, the greatest challenge was the lack of a clear, working definition as to what constitutes ‘road miles improved’. Beginning in reporting year 2010 (for reporting issued the following year), and thereafter, this number is calculated using the definition above.

Once a landowner identifies that a road or road segment is brought up to current rule standards, it is captured in that year’s accomplishment report. Provided the DNR RMAP Specialist concurs, the road no longer will be identified as an RMAP obligation; therefore, the road or road segment would not be included in subsequent reporting years for miles of road needing improvement or miles of road improved. All roads not under an RMAP obligation are subject to standard forest practices rules found in Chapter 222-24 WAC.

Miles of Road Abandonment

The number of road abandonment miles includes those that have been reported under an approved Road Maintenance and Abandonment Plan as abandoned per WAC 222-24-052(3).

Roads are not considered ‘officially abandoned’ until the DNR RMAP Specialist or Forest Practices Forester reviews the on-the-ground abandonment to ensure it meets the requirements. Reported road abandonment miles reflect some road miles that may not have been officially abandoned at the time this report was distributed.

Miles of Orphaned Roads

The number of miles of orphaned roads includes those that have been reported under an approved RMAP as orphaned. Inventory and assessment of orphaned roads will be used to help

in the evaluation of the hazard-reduction statute and to determine the need for cost-share funding (RCW 76-09-300).

This information is challenging to track precisely due to the difficulty locating these roads on the landscape; orphaned roads often are obscured by brush and forest cover and do not appear on any map. Some orphan roads have been converted to active forest roads, some abandoned, and some may be scattered throughout the landscape with present status unknown.

Number of Fish Passage Barriers Identified

The total number of fish passage barriers includes those identified as part of an approved RMAP inventory.

In 2006, the revised water type map was used as an additional tool to identify potential fish passage barriers. The total number of fish passage barriers will fluctuate over time, depending on when landowners verify on-the-ground physical characteristics and/or perform a protocol survey or other approved methodology for verifying fish presence or absence. In cases in which a stream type has been changed from 'F' to 'N'—therefore negating the landowners' obligation to remove fish passage barriers—sizing of the culvert will be assessed to ensure that it meets the 100-year flood level. Barriers also may be removed from the total number if the structure was determined by WDFW to be sufficient to remain until the end of its functional life (due to limited habitat gained). Also, it may be removed from the list if the structure was determined to play an important role in maintaining pond or wetland habitats; these decisions are made with stakeholder consultation.

Number of Fish Passage Barriers Corrected

The corrected number of fish passage barriers includes the total number that have been permanently removed or fixed with a fish-passable structure.

Previously, this number included some streams that had been downgraded from an 'F' to an 'N', which did not meet the intent of this reporting element. Beginning in reporting year 2010 and thereafter, (compiled by DNR and reported early the following year), this number is reported as the number of actual fish passage barriers corrected.

Miles of Fish Habitat Opened

The miles of fish habitat opened includes stream habitat opened for fish use after the fish passage barrier has been removed or replaced. This number is an estimate, due to stream length not always being measured on the ground. The measurement often is based upon aerial photos and/or maps.

This number of miles of fish habitat opened may fluctuate depending on when, or whether or not, a stream type verification survey occurs. If there are no protocol surveys to pinpoint exact breakpoints, this number is reflected by large forest landowner data or topographical information. It also is difficult for landowners to determine this number if the stream enters another ownership.

Number of Checklists Submitted by Small Landowners

The number of checklists is the total number submitted to the regions by small forest landowners since the 2003 rule change. Small forest landowners may submit more than one RMAP Checklist.

Beginning in reporting year 2007 and thereafter, checklists have been separated from the 'Number of Approved RMAPs' and tracked separately.

The following table, *Statewide Cumulative Road Maintenance and Abandonment Plan Accomplishment Report* displays the data cumulatively by year, rather than by DNR region.

Statewide Cumulative Road Maintenance and Abandonment Plan Accomplishment Report

Year	Number of Approved RMAPs & Submitted Checklists	**Total # of RMAP Checklists from Small Forest Landowners	Miles of Forest Road Assessed	Miles of Road Improved	Miles of Road Abandonment	Miles of Orphaned Roads	Approx. Miles of Habitat Opened	# of Fish Passage Barriers Corrected
2001-2002	4,066	---	15,484		645	502	52	46
2001-2003	5,530	---	27,072		1,007 / *362	1,246	175 / *123	355 / *309
2001-2004	7,401	---	48,051		1,587 / *580	1,944	647 / *472	1,217 / *908
2001-2005	8,419	---	58,843		1,856 / *269	2,107	775 / *128	1,363 / *146
2001-2006	9,950	---	59, 220		2,068 / *212	2,313	982 / *207	1,819 / *456
**2001-2007	107	8,121	56,936	13,140	2,153 / *85	2,293	1,221/*239	2,248 / *429
2001- 2008	130	8,628 / *506	57,442	15,019/ *1,879	2,431 / *278	2,305	1,448/*227	2,871 / *623
2001-2009	126	8,804 / *176	57,442	16,195/ *1,176	2,621/ *190	2,305	1,569/*121	3,141/ *270
2001-2010	262	9,187 / *383	57,442	18,475/ *2,280	2,915/ *294	2,333	1,772/*203	3,769/ *628

* Number represents the increase from the previous year's report.

** Beginning in reporting year 2007 and thereafter, checklists have been separated from the 'Number of Approved RMAPs' and tracked separately.

Fish Passage Barriers

In addition to the fish barrier information in the above tables, the following table, “*Fish Passage Barrier Information for Large Landowners*” displays how many barriers have been repaired cumulatively since 2001; the total repaired in calendar year 2010, and the percent of total repaired as of December 31, 2010.

Fish Passage Barrier Information for Large Forest Landowners

DNR Region	Number of fish passage barriers identified*	Number of fish passage barriers corrected from 2001-2010	Number of fish passage barriers corrected in 2010	% of total fish passage barriers corrected as of 12/31/2010
Northeast	844	633	54	75%
Northwest	585	254	45	43%
Olympic	1,307	524	95	40%
Pacific Cascade	3,067	1,674	350	55%
South Puget Sound	593	344	79	58%
Southeast	629	340	5	54%
Totals	7,025	3,769	628	54%

*This number may fluctuate annually as water types are confirmed and/or modified.

9.4 Washington Department of Fish and Wildlife Efforts

Washington State Department of Fish and Wildlife (WDFW) Forests and Fish biologists provide an essential role in the review and implementation of RMAPs. The following is a descriptive summary of the RMAP duties performed by the WDFW staff.

- Reviewed new and ongoing Road Maintenance and Abandonment Plan proposals.
- During Fiscal Year 2011, Washington Department of Fish and Wildlife reviewed RMAPs statewide and issued 544 Hydraulic Project Application (HPA) permits.

The 2016 deadline for completing RMAP work continues to create a large demand for HPAs. Each RMAP will have multiple associated HPAs. The complexity of technical assistance and HPAs needed from WDFW biologists has increased as work is shifting from the easier fixes to the more challenging crossing structures, as well as structures located higher in the watershed.

- Reviewed 3,379 Forest Practice Applications for HPA requirements, provided site reviews, issued HPA permits, and provided other technical assistance as needed.
- Developed, reviewed, and consulted with small forest landowners addressing stream typing, aquatic resource protection and road issues. Provided technical assistance, conducted site reviews, reviewed completed long-term plans, and issued HPA permits for small forested landowners.

- Reviewed revised RMAPs as landowners make annual changes pertaining to fish passage structures, fish habitat, stream typing, and sediment delivery.
- Reviewed revised RMAPs as land ownership changes occurred. Ownership changes have been occurring at a relatively high rate.
- Provided technical assistance and reviewed Alternate Plans for both small and large industrial landowners.
- Validated stream typing, including identifying the breaks between fish and non-fish-bearing streams, as part of the RMAP process, as well as implementation of the Forest Practices Rules for riparian zones.
- Provided technical assistance as needed to forest landowners for aquatic-related mitigation and restoration and to identify specific habitat needs for species of concern.
- Participated in stakeholders committee to revise Section 3 of the Forest Practices Board Manual “Guidelines for Forest Roads” as pertains to RMAP extension requests and the revised standardized reporting requirements.
- Participated in the review and development of Forest Practices adaptive management-related research through Cooperative Monitoring, Evaluation and Research Committee (CMER) participation.
- Participated on the Forest Practices Compliance Monitoring Team relating to riparian prescriptions and road construction and maintenance.

10. Tribal Relations

10.1 Introduction

Under the authority of the Forest Practices Act (chapter 76.09 RCW), the Forest Practices Board’s rules 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.

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 committees: the Forests and Fish Policy Committee; Cooperative Monitoring, Evaluation, and Research Committee; the Board’s Timber/Fish/Wildlife Cultural Resources Roundtable (formerly “Committee”; see 10.3 below), 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 Practice Rules and Board Manual guidelines, review Forest Practice 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 regarding implementing and tracking. The second is an update on the work by Timber/Fish/Wildlife Cultural Resources Roundtable.

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

One of the reporting elements in the Forest Practices HCP is the required landowner/tribal meetings, and the process improvements being made by the Forest Practices Program to more consistently implement this rule.

Subsection (1) of 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”. To implement Subsection (1), the program notifies a tribe of the applications and notifications 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. A tribe simply signs up by completing an FPARS Reviewer Profile, and then automatically receives all applications and notifications that meet the parameters of their profile. Currently, all but one of the federally recognized tribes in Washington have chosen to review Forest Practices Applications and Notifications.

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.” To improve implementation, DNR completed the following steps in 2008 and 2009 to help address region audit findings regarding tracking of these required landowner/tribal meetings, and to initiate data collection on the meetings for the HCP annual report.

- DNR updated guidance on tracking landowner/tribal meetings (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 of the required landowner/tribal meetings took place.
- The Forest Practices Program conducted training in 2008 and provided guidance to the regions on implementing new historic sites rules as well as WAC 222-20-120. The training:
 - explained the Board’s new classification criteria for applications involving cultural resources,
 - emphasized that the landowner/tribal meeting is required for all Class IV-special applications involving a cultural resource,
 - discussed how to use the Forest Practices Application/Notification Office Checklist for tracking Forest Practices Applications that have a cultural resource issue, and
 - discussed how to use the Forest Practices master log to track the required meeting data.

Previous HCP annual reports provided the number of Forest Practices Applications for the reporting period that required a landowner/tribal meeting, and the number of applications for which the meeting occurred. While all required landowner/tribal meetings took place during this reporting period, the Forest Practices Program currently is verifying that all regions are consistently implementing the landowner/tribal meeting guidance. Once verification is complete, DNR will discuss with the Services, identifying the most informative data that needs to be reported annually. The desired data once again will be quantified and reported beginning with the 2012 HCP annual report.

In May 2010, after hearing from the Timber/Fish/Wildlife Cultural Resources Roundtable about problems with WAC 222-20-120, the Forest Practices Board publically announced its consideration for rulemaking to clarify this rule. In May 2011, the Board accepted the Roundtable’s consensus draft rule language for review required by the Forest Practices Act. The department will review the comments received and report to the Board in August 2011.

10.3 Update on Timber/Fish/Wildlife Cultural Resources Roundtable Background

The Timber/Fish/Wildlife Cultural Resources Committee originated as part 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 committee’s charter,

which changed the committee's name to Timber/Fish/Wildlife Cultural Resources Roundtable. Accordingly, the Roundtable now is on the [Board's website](#). Webpage materials include the Roundtable's charter, agendas and meeting notes, and the Cultural Resources Protection and Management Plan.

Today's Roundtable includes active participation by tribal representatives (especially Puyallup, Yakama, Suquamish, Quinault, and Cowlitz), forest landowners representing Washington Forest Protection Association (WFPA) members, and state agency representatives from DNR Forest Practices, DNR State Lands, 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 monthly meeting agendas and notes.

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 cultural resources commitments in the *Forests and Fish Report*. Appendices G and O of the report specifically made the commitment 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 Roundtable's (then Committee's) consensus Cultural Resources Protection and Management Plan as fulfillment of these two *Forests and Fish Report* commitments because its appendices include a watershed analysis cultural resources module and rules to implement the module. In May 2005, the Board formally approved the watershed analysis cultural resources module for inclusion in Board Manual Section 11, *Standard Methodology for Conducting Watershed Analysis*, and adopted the rules implementing the module.

The Cultural Resources Protection and Management Plan is incorporated into the Forest Practices HCP (Washington DNR, 2005) as Appendix I.

Updates to the Cultural Resources Protection and Management Plan are added by the Roundtable to formally recognize completed projects. The current Cultural Resource Protection and Management Plan was updated in October 2008 and can be found at the above listed website.

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 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 Forest Practices 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 the landowner/tribal meeting requirement.

Regarding classifying applications and notifications involving cultural resources, the Forest Practices program 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 2010-2011 was \$34,053, 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 2010-2011, the Roundtable's work priorities were as follows:

- On behalf of DNR, the Roundtable reports annually to the Board on the effectiveness of the Cultural Resources Protection and Management Plan, as required for continued review of Forest Practices Rules. The Roundtable provided their [annual report to the Board](#) in November 2010 (click on 11-9-10 meeting materials and scroll to the report). The Roundtable now presents its annual reports at the Board's August meetings so the Board can use the information in them during their November planning meetings.
- As a part of staff reports at regular Board meetings, the Roundtable provided its quarterly report in the form of its work plan.
- Working with the Board and DNR's Tribal Relations Manager, the Roundtable completed, and the Board accepted, the charter for the TFW Cultural Resources Roundtable.
- The Roundtable continued to work on clarifying language for WAC 222-20-120 and presented consensus proposed rule language to the Board in May 2011. The Roundtable anticipates Board approval in August to continue to the next step in the rule making process.
- The Roundtable continued its work on developing cultural resources guidance documents and tools— as agreed to in the Cultural Resources Protection and Management Plan. Utilizing information gathered at the 2010 Roundtable workshop and subsequent project scoping, the Roundtable is drafting a number of guidance documents on implementing this plan as well as other helpful cultural resources information.
- 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 have been conducted around the state and some workshops had a hundred or more attendees.

11. Enforcement

11.1 Introduction

Working in conjunction with forest landowners, timber owners, and operators Forest Practices Program staff is responsible for ensuring that forest practice activities are conducted according to the Forest Practices Act and Rules, as well as the conditions of the approved Forest Practices Application/Notification. Region Forest Practices Program staff prioritize compliance inspections relative to the potential risk to public resources posed by the forest practice activity. For example, landowners that propose substantial road construction in steep terrain—where there is potential for direct sediment delivery to a stream—will receive a higher level of compliance inspections over a forest practices proposal that has limited road construction on gentle slopes that have no associated risk of sediment delivery to a stream.

The classification of a Forest Practices Application is correlated with the level of risk to a public resource and is therefore used as a tool for Forest Practices Program foresters to determine the level of compliance inspections that will be conducted for a particular forest practices activity. This targeted approach helps ensure the most effective and efficient use of Forest Practices forester's time.

Four classes of forest practices

- **Class I** - determined to have no direct potential for damaging a public resource.
- **Class II**- determined to have a less than ordinary potential to damage a public resource.
- **Class III** - determined to have an average potential to damage a public resource.
- **Class IV** - determined to have potential for a substantial impact on the environment – this is further evaluated dependent upon whether the proposal is **Class IV-General**, or **Class IV-Special** classification. Applications classified as IV-General are applications that are being converted from forestry to a different land use such as housing or agriculture.

Regardless of the classification, all forest practices activities must be performed in compliance with the Forest Practices Act and Rules. More detailed information on [forest practices classifications](#) can be found in WAC 222-16-050, Classes of forest practices.

Compliance visits are an important part of the Forest Practices Program forester's job. The information gathered during compliance visits and compliance monitoring (Compliance Monitoring Program, see Chapter 8) is used for program improvement. Improvement may include clarifying or modifying rule language, providing guidance documents or modifying board manuals, improving the administration of the rules, and additional education and training.

When a forest practices activity has been found to be out of compliance with the rule, the Forest Practices Program staff have several enforcement options available: informal conferences, Notices to Comply (NTC), Stop Work Orders (SWO), civil penalties, Notice of Intent to Disapprove, and criminal penalties. The Forest Practices Act and the Forest Practices Board (Board) encourage informal, practical, result-oriented resolution of alleged violations and actions needed to prevent damage to public resources. It is also the Board's policy to use a progressive

approach to enforcement that begins with consultation and voluntary efforts to achieve compliance while reserving civil penalties (monetary fines) for more serious infractions.

11.2 Enforcement Activity

Enforcement documents can be used for either violations or non-violations. Violations are forest practices activities that have damaged a public resource or violate a law or rule. Non-violations are situations where damage to a public resource has not occurred but the forest practices forester has determined that damage is imminent if the activity or condition is not altered. An example would be an operator who does not have adequate road surface drainage on a haul road for use in the rainy season. The operator could be issued a non-violation Notice to Comply requiring the road be upgraded so it does not pose a threat to public resources during heavy rains. The following table shows enforcement activity between July 1, 2010, and June 30, 2011.

Fiscal Year 2011 Stop Work Orders and Notices to Comply Issued

Region	Stop Work Orders		Notices to Comply		Total
	Non-Violation	Violation	Non-Violation	Violation	
Southeast	0	0	0	12	12
Northwest	4	19	16	29	68
South Puget Sound	1	3	7	8	19
Northeast	0	7	3	16	26
Pacific Cascade	0	3	2	10	15
Olympic	1	6	2	12	21
Total	6	38	30	87	161

Fiscal Year 2011 Enforcement Data Summary

Number of current Forest Practices Application/Notifications (FPA/Ns) through June 30, 2011 (See chapter 4 for details)	13, 260*
Number of NTCs/SWOs issued for violations	125
Ratio of NTC/SWO violations to total number of valid FPA/Ns (125/13,260)	.95%
Number of NTCs/SWOs issued for non-violations	36
Ratio of NTC/SWO non-violations to total number of valid FPA/Ns (36/13,260)	.27%
Total number of documents issued (violation & non-violation)	161
Ratio of all documents issued to total valid FPA/Ns (161/13,260)	1.21%

*Approved Forest Practices Applications

The table above compares the number of Notice to Comply/ and Stop Work Order documents issued in FY2011 to the number of current Forest Practices Applications through June 30, 2011. A comparison from the 2010 annual report shows a decrease of 72 NTC/SWOs issued, which breaks down to a decrease of 22.8 percent issued for violations, and a decrease of 49.3 percent

issued for non-violations. Further evaluation would be needed to determine the reason(s) behind these decreases.

Although not all positions are full-time, the program has about 44 Forest Practices Program field staff statewide that enforces the Forest Practices Act and Rules and helps ensure compliance. Some forest practices positions were vacant due to budget reductions.

The majority of violations do not require additional enforcement action, such as issuance of a civil penalty or Notice of Intent to Disapprove. The decision to pursue this level of enforcement is made at the Region level and a number of factors are taken into consideration such as:

- Failure to comply with the terms or conditions of a Forest Practices Application/Notification or Stop Work Order,
- The probability of more than minor harm to the environment,
- The extent of damage to the public resource,
- Whether there have been multiple violations of the same rule or law by the landowner.

The table below shows the number of civil penalties and Notices of Intent to Disapprove that became a Final Order* during FY2011.

Fiscal Year 2011 Civil Penalties and Notices of Intent to Disapprove

Region	Civil Penalties	Notice of Intent to Disapprove
Southeast	0	0
Northwest	1	1
South Puget Sound	0	1
Northeast	2	0
Pacific Cascade	0	0
Olympic	0	0
Total	3	2

*Final Order occurs when all appeal processes have concluded.

12. Washington State Legislature

12.1 Introduction

In 1974, the Washington State Legislature passed the Forest Practices Act declaring that:

“forest land resources are among the most valuable of all resources in the state; that a viable forest products industry is of prime importance to the state's economy; that it is in the public interest for public and private commercial forestlands to be managed consistent with sound policies of natural resource protection; that coincident with maintenance of a viable forest products industry, it is important to afford protection to forest soils, fisheries, wildlife, water quantity and quality, air quality, recreation, and scenic beauty” (RCW 76.09.010).

The Act was the state’s first comprehensive law addressing the impacts of forest practices on the environment. The Act also created the Forest Practices Board, which sets the specific standards that are the basis for the Forest Practices Program.

Each year, DNR monitors laws being passed by the Washington State Legislature for those that could impact the Forest Practices Program. The table in section 12.2 describes the laws passed in the 2011 Washington State legislative session that could affect the Forest Practices Program. However, there were no new laws that would result in a change in protection of habitat for the species covered in the Forest Practices HCP.

2011 legislation that most significantly affected the Forest Practices Program included ESHB 1509 which made several changes to the Forestry Riparian Easement Program (FREP) and will result in changes to the rules (chapter 222-21WAC). Also, House Bill 1582 eliminated all references to “lands platted after January 1, 1960” from RCW 76.09.050, which is the statute that defines classes of forest practices. Proposed forest practices on these lands will not automatically be assumed to be conversions to a non-forestry use, and therefore will not automatically be designated as a Class IV-General application.

12.2 Provisions of Selected 2011 Washington State Laws

Selected 2011 Washington State Laws Affecting the Forest Practices Program				
Bill #	Title ("AN ACT relating to ...")	Provisions	Status	Effect*
HB1150	...extending the time in which a small business may correct a violation without a penalty.	<p>This bill applies to small businesses which employ less than 50 employees, as defined in RCW 43.05 (Regulatory Reform).</p> <p>The bill extends the time period from 2 business days to 7 calendar days for a violator to correct a violation before an agency can impose a fine or administrative sanctions. Administrative sanctions are not defined in the bill; the Forest Practices Program believes the bill includes all enforcement actions issued by the Forest Practices Program. Delaying the issuance of an enforcement action by 7 days could allow damages to public resources to continue for that length of time instead of allowing the program to require immediate action through enforcement documents to stop damages to the resource. The delay may also cause the state Department of Ecology to exercise RCW 76.09.100, to petition the Pollution Control Hearings Board to require the Forest Practices Program to issue a Notice to Comply and/or Stop Work Order or issue a civil penalty.</p> <p>However, the bill offers exceptions to the 7-day time period for the following reasons:</p> <ul style="list-style-type: none"> • The Commissioner of Public Lands determines that the effects of the violation presents direct danger to public health, will result in a loss of income or benefits to an employee, poses a potentially significant threat to human health or the environment, or causes serious harm to the public interest; • The violation involves a knowing or willful violation; • The small business committing the violation previously violated a substantially similar requirement; • The Commissioner finds that the 7-day time period is in conflict with federal law or program requirements, such as 	law, effective 7/22/2011	direct, no rule- making required

Selected 2011 Washington State Laws Affecting the Forest Practices Program

Bill #	Title ("AN ACT relating to ...")	Provisions	Status	Effect*
		<p>the Clean Water Act;</p> <ul style="list-style-type: none"> • The owner or operator of the small business committing the violation owns or operates, or owned or operated a different small business which previously violated a substantially similar requirement. <p>The exceptions would allow the Commissioner to determine that the DNR may take appropriate enforcement actions for all forest practices violations with the potential for damage to public health, public resources, or will violate any federal law or program (such as the Clean Water Act).</p>		
ESHB1509	...the Forestry Riparian Easement Program.	<p>This bill makes nine changes to the current Forestry Riparian Easement Program (FREP):</p> <ol style="list-style-type: none"> 1. Defines a qualifying small forest landowner for FREP as a for profit entity meeting the eligibility of a small forest landowner at the time compensation is offered for a forestry riparian easement. [Section 1(2)(b)(ii) and (2)(d)] 2. Expands the definition for qualifying timber to include forest trees associated with an approved Forest Practices Application that cannot be harvested according to Forest Practices Rules on areas of potentially unstable slopes or landforms with the potential to deliver sediment/debris to a public resource or threaten public safety. [Section 1(2)(c)(iii)] 3. Limits compensation for timber on potentially unstable slopes or landforms to \$50,000 in any biennial funding period.[Section 1(8)(a)] 4. Requires DNR Small Forest Landowner Office (SFLO), subject to available appropriated funds, to utilize no more than 50% of the funds to determine the value of forest riparian easements based on the value of the timber on the date the complete Forestry Riparian Easement Program application is received by the DNR. [Section 1(7)(b)] 	law, effective 7/22/2011	direct, rule-making required

Selected 2011 Washington State Laws Affecting the Forest Practices Program

Bill #	Title ("AN ACT relating to ...")	Provisions	Status	Effect*
		<p>5. Changes the starting date of the 50-year easement from the date the forest practice application pertaining to the easement area is received to the date the completed riparian easement application is received. [Section 1(4)]</p> <p>6. Expands the authority for the DNR to reimburse qualifying landowners for the preparation costs of a forestry riparian easement (e.g. adding geotechnical reports).[Section 2]</p> <p>7. Requires DNR to submit to the Governor, before November 1 of each even-numbered year, a list of all forestry riparian easements to be funded. This list must include the date of each application, the type of qualifying timber, estimates of the value of the easement and aerial photograph maps of the easement area. The Governor then determines which applications are to be funded by submitting the list in a capital budget request to the legislature. The Governor or the legislature may remove an application if there is evidence the applicant is a non-qualifying landowner.</p> <p>8. Requires DNR to collect full reimbursement for a funded forestry riparian easement from the selling landowner if the land containing the purchased easement is sold to a non-qualifying landowner within the first 10 years after compensation. [Section 5]</p> <p>9. Directs the chair of the Forest Practices Board to form a group of stakeholders to investigate and recommend potential new long-term funding sources for the Forestry Riparian Easement Program and report to the legislature by October 31, 2011. Group will disband after July 31, 2012. [Section 6]</p> <p>HB 1509 had one substitute and one engrossed substitute bill. Changes from the original version to the substitute and</p>		

Selected 2011 Washington State Laws Affecting the Forest Practices Program

Bill #	Title ("AN ACT relating to ...")	Provisions	Status	Effect*
		<p>engrossed substitute are as follows:</p> <ol style="list-style-type: none"> 1. Removes from the eligibility requirements for qualifying small forest landowners: <ul style="list-style-type: none"> • The requirement to have a forest stewardship plan or forest certification on the land the easement occupies. • The requirement to have owned the property the easement occupies before July 1, 2011 or be a descendant of the owner. 2. Expands the definition for qualifying timber to include timber associated with potentially unstable landforms with potential to deliver debris to a public resource <u>or threaten public safety</u>. 3. Changes the limit for compensation to a small forest landowner for timber associated with potentially unstable slopes from \$100,000 in a four-year period to \$50,000 in any biennial funding period. 4. Limits DNR, when funding is available, to spend no more than 50% of the available appropriated funds to determine the value of qualifying timber for completed forestry riparian easement applications. 5. Changes the starting date that the 50-year forest riparian easement term will begin from the date the easement is acquired to the date the completed easement application is received by DNR. 6. Requires the selling landowner to reimburse the state for the full riparian easement compensation if the land the easement occupies is sold to a non-qualifying landowner within the first 10 years after compensation. 7. Requires DNR to submit to the Governor, before November 1 of each even-numbered year, a list of all forest riparian easements proposed for funding. This list must include the date of each easement application, 		

Selected 2011 Washington State Laws Affecting the Forest Practices Program

Bill #	Title ("AN ACT relating to ...")	Provisions	Status	Effect*
		the type of qualifying timber, estimates of the value of the riparian easement, and aerial photograph maps of the easement area.		
HB 1582	... Forest Practices Applications leading to conversion of land for development purposes.	<p>The bill removes the phrases "lands platted after January 1, 1960" and "lands that have or are being converted" from the statute defining classes of forest practices, and replaces them with language that all forest lands that are being converted to another use are Class IV Forest Practices Applications. The bill establishes in the Forest Practices Statutes that:</p> <ol style="list-style-type: none"> 1. Class II Forest Practices Applications shall not include forest practices on forest lands that are being converted to another use. 2. Class IV-General (forest conversion) Forest Practices Applications are forest practices other than those contained in Class I or II on forest lands that: <ul style="list-style-type: none"> • are being converted to another use; • are likely to be converted to urban development (within Urban Growth Areas); and • involve any timber harvest or road construction activities on forest land within Urban Growth Areas except where the forest landowner provides one of the two opt-outs. 	law, effective 7/22/2011	direct, rule-making required
SB5500	...rule making process for state economic policy.	<p>Bill amends the Regulatory Fairness Act (RCW 19.85.030 and 19.85.070) relating to the small business economic impact statement.</p> <p>Agencies with rule making authority "MUST adopt methods and procedures which will insure that economic IMPACTS AND values will be give consideration in the rule making process."</p> <p>When the agency determines that there are disproportionate impacts to small businesses if a rule is adopted, then the</p>	law, effective 7/22/2011	indirect

Selected 2011 Washington State Laws Affecting the Forest Practices Program

Bill #	Title ("AN ACT relating to ...")	Provisions	Status	Effect*
		agency would be required to consider information from small businesses if the agency has received any information from small businesses on probable cost impacts.		

13. Information Technology

13.1 Information Technology-Based Tools

Information technology-based tools provide significant support for the administration of the Forest Practices Program. These tools include information systems, such as the Forest Practices Application Review System (FPARS) and the Forest Practices Risk Assessment Tool, as well as discrete data sets, such as the DNR Hydrography Geographic Information System (GIS) data layer that forms the basis of the water typing system. Within DNR, the Forest Practices Division works closely with the Information Technology Division to develop and maintain these information technology tools.

Forest Practices Application Review System (FPARS)

The Forest Practices Application Review System (FPARS) streamlines the processing of Forest Practice Applications and provides the public with the ability to review proposed forest practices activities. It makes use of the Internet, document imaging and management technology, interactive geographic information system technology, and the Oracle database system to provide for the collection of Forest Practices Application/Notification information, distribution of these applications/notifications for regulatory and public review. FPARS also supports risk assessments of proposed forest practices activities, and archiving Forest Practices Applications/Notifications.

A total of 5,219 Forest Practices Applications/Notifications (received or renewed) were entered into the Forest Practices Application Review System between July 1, 2010, and June 30, 2011. Currently, nearly 1,170 reviewers receive notification of new applications in their area of interest. Another 455 individuals search the website for application and notification images on demand.

The FPARS (version 3) project was put on hold during FY 2011 due to a lack of funding to fully complete it. The Version 3 project was designed to provide forest practices applicants with the ability to complete an application and submit it via the internet. The foundational work completed last fiscal year is still in place, ready to be picked up once funding is available.

Forest Practices Risk Assessment Tool

The Forest Practices Program continues to support the Forest Practices Risk Assessment Tool. This interactive mapping and reporting tool is available on DNR's web pages. It gives DNR Forest Practices Program staff, in both the division and the region offices, access to GIS data related to the implementation of the Forest Practices Rules. It allows staff to see the geographic relationships between environmental features, including streams with fish habitat, potential landslide areas, archaeological sites, and northern spotted owl habitat, and the locations of proposed forest practice activities. There currently are more than 70 map layers that can be displayed or queried.

Forest Practices GIS moves to ArcGIS

During the July 1, 2010 to June 30, 2011 reporting period, the Forest Practices GIS section converted existing GIS data layers from their original format in Workstation Arc/Info to the new

ArcGIS format. The Workstation Arc/Info software format soon will be obsolete, making datasets unusable. The conversion to ArcGIS helps ensure that current and historic Forest Practices GIS data sets will be available well into the future. Hundreds of thousands of datasets were converted, including those used for the water type modeling project, watershed analyses, and the landslide hazard zonation/ landslide inventory project. Converted data provides important documentation of what we have done and a jumping off place for future analyses.

The DNR Hydrography Data Layer and Water Type Updates

The Forest Practices GIS section updates DNR's hydrography data layer with water typing information received on Water Type Modification Forms (WTMF). These updates are based on direct observation in the field by DNR personnel, forest landowners, fish survey contractors, and others. Between July 1, 2010, and June 30, 2011, DNR entered approximately 3,493 updates into the Hydrography data set based on 1,077 Water Type Modification Forms.

DNR staff continues to face a sizable backlog of information about water type modifications. In order to address this, between June and September, 2011 extra resources are being focused on entering water type updates in the hydrography data layer.

Forest Practices Program Budget

14.1 Introduction

The state of Washington faced a severe budget deficit of \$9 Billion during the 2009-2011 biennium which required reductions across all of state government. The Department of Natural Resources operating budget was cut \$21 Million. The Forest Practices program share of the agency's reduction was \$4 Million (19%). However, the Forest Practices program was awarded supplemental funding for the Adaptive Management Program (AMP) from the Aquatics Land Enhancement (ALEA) and Forest and Fish Support accounts (FFSA) in fiscal year 2011. These funding sources provided continued support for the scientific research to sustain the state's Forest Practices Habitat Conservation Plan (HCP), Clean Water Act (CWA) assurances and participation grants to tribal and non-profit public interest organizations.

14.2 2009-2011 Biennium Operating Budget by Activity

The Forest Practices program expended a total of \$26,511,549 of the base allocation for the 2009-2011 biennium. The figures below reflect the base program. This does not include the FTEs and budget for the federally funded portion of the adaptive management program or for positions funded under the state capitol or federal stewardship grants.

2009-2011 Biennium Allocation

2009-2011 Base Allocation by Activity	FTE's	Total State Funds
Forest Practices Act & Rules	108	\$18,390,169
Forest Practices Manage Adaptively	4	\$1,617,021
Small Forest Landowner/Stewardship Office	2	\$319,303
Forests & Fish Support Account	0.50	\$7,051,600
TOTALS	114.50	\$27,378,093

FY 10 Expenditures (July 1, 2009 – June 30, 2010) as previously reported

FY 2010 Expenditures by Activity	FTE's	Total State Funds
Forest Practices Act & Rules	108	\$9,127,796
Forest Practices Manage Adaptively	3.88	\$982,389
Small Forest Landowner/Stewardship Office	2.13	\$161,955
Forests and Fish Support Account (FFSA)	.39	\$3,191,416.58
TOTALS	114.40	\$13,463,556.58

FY 11 Expenditures (July 1, 2010 – June 30, 2011)

FY 2011 Expenditures by Activity	FTE's	Total State Funds
Forest Practices Act & Rules	101.70	\$8,525,844
Forest Practices Manage Adaptively	4	\$1,649,313
Small Forest Landowner/Stewardship Office	2.55	\$219,916
Forests and Fish Support Account (FFSA)	0.50	\$2,652,919
TOTALS	108.75	\$13,047,992

The following lists what is funded under the above functional activities:

Forest Practices Act & Rules (Operations)

Application Processing
 Compliance Monitoring
 Enforcement
 RMAPS
 IT/GIS Development & Support
 Program Development
 Stakeholder Assistance

Manage Adaptively

Adaptive Management Staff
 Adaptive Management Projects

SFLO/Stewardship

SFLO Program/Operations
 Forest Stewardship/Landowner Assistance

Forests & Fish Account

Participation grants to tribes /tribal organizations
 Participation grants to non-profits

14.3 Full Time Employees

The Forest Practices program experienced position vacancy rates of 5% due to the state’s hiring freeze implemented in this biennium. Despite the budget crisis and hiring freeze, the Forest Practices program preserved operational staffing levels essential for compliance and enforcement. Over the last eight years, the program has maintained, on average, 49% of the actual full-time equivalents (FTEs) in field operations. The following table reveals this trend.

Forest Practices Program
 General Fund- State Overview of Forest Operations FTEs

	2003-2005	2005-2007	2007-2009	2009-2011
GF-S FTEs Actuals	132	124	132	114
Forest Practices Act & Rules (Operations) FTEs	61	67	63	56
Percentage	46%	54%	48%	49%

14.4 Overview of Funding

Fluctuations in the FTEs are attributed to budget reductions, program funding patterns and participation in the fire program. For six years, water quality funds financed the small forest landowner foresters. The shift from water quality to capital funding for the small forest landowner foresters occurred in the '07-09 biennium. In the same biennium the Small Forest Landowners’ Office received a one-time enhancement for developing a program for long-term forest/stewardship management plans. The compliance monitoring program was fully integrated

into the forest practices base budget in the '05-07 biennium. As previously reported, the Forests and Fish Support Account (FFSA) was added to the base budget in fiscal year 2008.

The FTE and funding information in the two tables of this report reflect the allotments and final operational expenses for the past eight years. These figures may be different from previous reports due to annual reporting timelines, the closing out of fiscal years and funding fluctuations of sub-activities within the core program.

In light of these funding patterns over the last eight years, and the significant budget reductions experienced in this biennium, the Forest Practices program continued to safeguard the operational funding level (act & rules) at an overall average of 67% of the general fund state allotment. The following table illustrates this funding pattern.

Forest Practices Program
Overview of General Fund-State & Operations Funding Patterns

Biennium	General Fund State Allotment	Forest Practices Act & Rules (Operations) Actual Expenditures	Forest Practices Act & Rules (Operations) Percentage of GF-S
2003-2005	19,759,000	14,970,664	76%
2005-2007	20,596,000	17,008,689	83%
2007-2009	31,330,822	17,579,819	56%
2009-2011	29,117,400	17,653,640	61%
Total	100,803,222	67,212,812	67%

15. Training/Information/Education

15.1 Introduction

Forest Practices Rules require DNR to “conduct a continuing program of orientation and training, relating to forest practices and rules thereof, pursuant to RCW 76.09.250” (WAC 222-08-141). DNR conducts ongoing training programs to educate internal agency staff, forest landowners and staff from cooperating agencies and organizations on implementation of Forest Practices Rules.

There are four major venues in which the Forest Practices Program provides training:

- Washington Contract Loggers Association (WCLA) training
- Forest Practices Program training
- Subject-based training
- Region training

15.2 Status of Forest Practices Training Programs

Due to budget constraints the program no longer has a Training Manager to implement a training program for staff, stakeholders, and landowners. Some training still continues—although on a much smaller scale—such as unstable slopes, channel migration zones, and wetlands. These are provided on an as-needed basis.

The Forest Practices Program had hoped to convene a stakeholder group to address training needs for staff and stakeholders, as well as a strategy for implementation beginning sometime in 2011. This did not occur due to budget constraints. The program has obtained funding for a training manager in FY 2012.

Washington Contract Logger Association Training

Staff participated in training offered by Washington Contract Logger Association (WCLA) — one session in eastern and two in western Washington. WCLA offers a five-day training course to participants, which includes one day of Forest Practices Rules training for operators seeking state certification. This course generally is offered twice a year in western and once in eastern Washington. Program staff and staff from other agencies (e.g., WDFW and Ecology) cover water typing, riparian and wetland management zones, cultural resources, road maintenance, enforcement, and general information regarding the Forest Practices Application/Notification process.

Forest Practices Program Training

Budget constraints have affected the magnitude of forest practices programmatic training over the past year. However, where possible, training has occurred. Less costly forums were sought for necessary training. For example, Forest Practices HCP Administrators provided informal training, as needed, through regularly scheduled meetings with region staff and one-on-one responses to questions via phone and email.

Formal training took place during regularly scheduled Operations meetings. The meetings are held three times a year between division staff and region Forest Practices Program management

staff to share information, address program concerns and answer questions. The Assistant Attorney's General office provided training to staff regarding discovery and search warrants. Department of Archeology and Historic Preservation provided a program overview. Program staff provided a review of the Forest Practices Board's rule-making process.

The Compliance Monitoring Program provides training for staff from DNR, Ecology, state Fish and Wildlife and tribal field staff that participate in onsite review of completed Forest Practices Applications. The training is specifically focused on the protocols used to collect Compliance Monitoring data. Protocols, which are updated periodically to reflect design changes, are reviewed to insure understanding of procedures and their purpose, usually in the context of meetings. On-the-job training is done using experienced staff to promote consistency in observations by newer program participants.

Training for Forest Practices Program information technology applications and web-based tools was limited to an as-needed basis during the 2011 fiscal year. Eight employees participated in Forest Practices Risk Assessment Tool training, and two employees participated in training about DNR's hydrography GIS database editing.

Subject-Based Training

Currently, Forest Practices Program scientists provide training on identification of unstable slopes, channel migration zones, and wetlands. These two-day courses have one day in the classroom and the other in the field. During this reporting period, unstable slopes training was offered three times, wetlands training offered twice, and channel migration zone training offered twice.

Unstable Slopes

Unstable slopes training included the following participants:

- **DNR staff** – new Forest Practices and State Lands foresters, Stewardship coordinators, Small Forest Landowner Office foresters, engineers, geologists, and research technicians.
- **Other public agency staff** –foresters, biologists, and engineers from the Natural Resource Conservation Service, US forest Service, and Grays Harbor County.
- **Industry staff** – engineers from Merrill and Ring, Weyerhaeuser, Rayonier, Pope Resources, Mason Bruce and Girard, Longview Timber and O'Neal Pine Co., Green Diamond Resources, Sierra Pacific Industries, Forest Professionals, Campbell Group, Port Blakely Tree Farms, International Forestry Consultants, and Hancock Forest Management.
- **Tribal** – foresters, biologists from Port Gamble S'Kallam, Quinault, Makah, Hoh, and the Suquamish tribes.

The objectives of unstable slopes training is to improve recognition of unstable slopes and landforms, improve consistency in recognition of these features, and identify when a specialist is needed for further consultation.

Channel Migration Zone

The target audience for channel migration zone training is DNR, industry, and other agency staff. The objectives of channel migration zone training include learning about channel anatomy, and

identifying significant features such as bankfull channel width, and the channel migration definition as defined by the rule. The class includes subjects such as understanding flood stage, and lateral channel movement; and aerial photo chronology to determine changes in channel morphology. Delineation of the migration zone also is demonstrated.

Wetlands

Basic wetland identification training has been offered for many years; and two main trainings along with a mini training for this year. Classes consist of identification of wetland vegetation for the specific region in which the training is conducted. Subjects covered in the classroom include wetland hydrology, soils, vegetation, and mitigation. Labs are conducted for identifying soils properties and plant associations. Field exercises cover wetland identification and delineation. Participants have included DNR foresters and managers, state Fish and Wildlife, and Timber/Fish/Wildlife (TFW) participants from the Spokane, Skokomish, Port Gamble, Nisqually, Snoqualmie, Puyallup, and Squaxin tribes.

Ideas for future training opportunities

The Forest Practices scientists are beginning to create formats for learning opportunities that use digital media. The Science Team is working with the Communications Group to provide photos of unstable slopes and wetland vegetation identification for twitter postings.

A video on bankfull width delineation has been posted to the Forest Practices website. There are two parts to the video that can be seen by clicking the following:

Part 1: [Identifying Bankful Channel Edge](#)

Part 2: [Identifying Bankful Channel Edge](#)

The Science Team has been working on easy to use self-explanatory presentations for each of the trainings. Final formats for these trainings are in transition as budgets and workloads could compromise the objective of providing these trainings in FY2012. Some possibilities are:

- An expectation that videography will be posted within the year for a training on channel migration zones.
- Mini-teaching workshops throughout the state that identify the three regulatory requirements of channel migration zones— “prone to move”, “in the near term”, and “with a potential for a loss of riparian function”. The workshop would include at least two- to- three example sites in each DNR region.
- Power point presentations with tracked narratives on unstable slope landforms could be posted as a guidebook for foresters and landowners for landforms in all DNR regions.

Region Training

DNR region staff generally delivers both statewide and region-specific training. In addition, each region office holds regular Timber Fish & Wildlife (TFW) “cooperator” meetings for Forest Practices program participants to communicate about changes in rules, rule implementation or application processing. Cooperator meetings are an important mechanism to assure fair and uniform application of forest practices requirements within and among DNR’s six regions. A

Region staff also organizes informal meetings in which technical or scientific information is presented as a way of keeping field practitioners informed about recent research findings.

Regions completed more than 130 training presentations/meetings during FY 2011. The topics varied widely. A few of the topics were: wetland identification, police powers, northern spotted owl assessments, state biomass project, water type verification, roads training, western grey squirrels, cultural resources, unstable slopes, and others.

16. Washington Timber Harvest Report

16.1 Introduction

The following Washington State Timber Harvest Report summary, *Timber Harvest by Owner Class and Region*, provides a historical record of timber harvest activities, by landowner class from 1990 to 2010. It includes harvest data for eastern and western Washington.

Timber Harvest by Ownership and Region

Source: Washington State Department of Natural Resources
Internet Homepage: <http://www.dnr.wa.gov/>

<i>Million Board Feet¹</i>							
Calendar Year	State Total	Owner Class				State Region ²	
		Private ³	DNR ⁴	Other State ⁵	Federal	Western	Eastern
1990	5,849	4,330	657	30	832	4,674	1,175
1991	5,104	3,822	535	33	714	4,014	1,090
1992	5,018	4,030	476	43	469	3,955	1,063
1993	4,329	3,513	461	17	338	3,307	1,022
1994	4,086	3,552	323	7	204	3,178	908
1995	4,392	3,720	496	20	156	3,417	975
1996	4,249	3,529	600	33	87	3,273	976
1997	4,245	3,390	645	31	179	3,258	989
1998	4,022	3,319	546	36	121	3,129	892
1999	4,383	3,580	662	15	126	3,375	1,008
2000	4,177	3,507	559	17	94	3,224	953
2001	3,716	3,116	496	26	79	2,842	874
2002	3,582	3,000	457	40	85	2,704	878
2003	4,234	3,413	651	35	136	3,538	696
2004	3,946	3,212	588	51	96	3,175	770
2005	3,730	3,024	594	32	81	2,958	771
2006	3,483	2,946	404	59	75	2,720	763
2007	3,264	2,685	448	36	95	2,613	651
2008	2,758	2,067	515	71	104	2,328	430
2009	2,217	1,423	641	52	101	1,914	303
2010	2,739	1,828	764	27	118	2,387	352

¹Scribner log scale.

²Boundary between the two regions is the county lines along the crest of the Cascade Mountains.

³ Private includes large forest landowners, small forest landowners, industrial timber owners, and Native American.

⁴Harvests from lands managed by the Washington State Department of Natural Resources (DNR).

⁵Includes public lands owned by cities, counties, public utilities, and state agencies other than Department of Natural Resources.

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18. List of Acronyms

Agencies and Organizations

Board	Washington Forest Practices Board
DAHP	Department of Archaeology and Historic Preservation
DNR	Department of Natural Resources
Ecology	Department of Ecology
ISPR	Independent Scientific Peer Review
NMFS	National Marine Fisheries Service
Policy Committee	Forests and Fish Policy Committee
RCO	Recreation and Conservation Office
Services	A group including both the National Marine Fisheries Services and the U.S. Fish and Wildlife Service
SFLO	Small Forest Landowner Office
SRFB	Salmon Recovery Funding Board
USFWS	United States Fish and Wildlife Service
WCLA	Washington Contract Loggers Association
WDFW	Washington Department of Fish and Wildlife
WDOT	Washington Department of Transportation
WFFA	Washington Farm Forestry Association
WFPA	Washington Forest Protection Association

Technical Terms

BAP	Brief Adjudicated Proceeding
CMZ	Channel Migration Zone
DFC	Desired Future Condition
EBAI	Equivalent Area Buffer Index
GF-State	General Fund - State
GIS	Geographic Information System
FTE	Full Time Equivalent
FY	Fiscal Year
FPA/N (or FPA)	Forest Practices Application/Notification
FPRAT	Forest Practices Risk Assessment Tool
ICN	Informal Conference Note
LGE	Local Government Entity
LHZ	Landslide Hazard Zonation
LWD	Large Woody Debris
NTC	Notice to Comply
RMZ	Riparian Management Zone
SWO	Stop Work Order
Type F	Fish-bearing stream
Type Np	Non-fish-bearing, perennial stream

Type Ns	Non-fish-bearing, seasonal stream
WAU	Watershed Administrative Unit
WRIA	Water Resource Inventory Area

Personnel, Programs, Plans and Reports

AMP	Adaptive Management Program
AMPA	Adaptive Management Program Administrator
CMER Committee	Cooperative Monitoring, Evaluation, and Research Committee
CMP	Compliance Monitoring Program
EIS	Environmental Impact Statement
FFFPP	Family Forest Fish Passage Program
FFSA	Forests and Fish Support Account
Forest Practices HCP	Forest Practices Habitat Conservation Plan
FPARS	Forest Practices Application Review System
FREP	Forestry Riparian Easement Program
FFR	Forests and Fish Report
HCP	Habitat Conservation Plan
IDT	Interdisciplinary Team
RMAP	Road Maintenance and Abandonment Plan
R & HOSP	Rivers and Habitat Open Space Program
RP&S	Resource Protection and Services
SFLO	Small Forest Landowner Office
SRC	Scientific Review Committee
TFW	Timber/Fish /Wildlife

Regulations, Acts and Permits

CWA	Clean Water Act
ESA	Endangered Species Act
ITP	Incidental Take Permit
RCW	Revised Code of Washington
SEPA	State Environmental Policy Act
WAC	Washington Administrative Code

19. APPENDIX

Appendix #1

Summary of Clean Water Act Milestones – June 30, 2011

Project #/Name	Project Description	% Complete
1 - Revised Cooperative Monitoring, Evaluation, and Research (CMER) Work Plan	By July 2009, and in subsequent budget and planning years, the Adaptive Management Program Administrator, with the assistance from the Policy and CMER committees, will send to the Forest Practices Board a revised CMER work plan and budget that places key water quality studies as high priorities—as described in section II(c) regarding the Adaptive Management Program.	100% - for current FY
2 - Table 1 Projects	By July 2009, and in subsequent planning years, the projects identified by Ecology in Table 1 will be reflected in the CMER budget and work plan in a manner that establishes a priority schedule for study development. Failure to meet any of the milestones identified without prior consent by Ecology may be viewed as a basis to revoke the Clean Water Act assurances at that point in time.	100% - for current FY
3 – Adaptive Management Program (AMP) Funding Strategy	The Forest and Fish Policy Budget Committee will identify a strategy that will be implemented with caucus principal support to secure stable, adequate, long-term funding for the AMP.	100%
4 - Compliance Monitoring Stakeholder Charter	DNR will complete the Charter for the Compliance Monitoring Stakeholder Guidance Committee, and determine which issues, identified herein, related to compliance monitoring will be dealt with by the committee. This is intended to help move these issues forward on schedule as well as to flag the items for which an alternative process for resolution is needed.	100%
5 - Protocols and Standards Training	The AMP Program Administrator, with the assistance of CMER and Policy Committees, will complete the ongoing training sessions on the AMP protocols and standards for CMER, and Policy. This is intended to remind participants of the agreed upon protocols. Opportunity should also be provided to identify portions of the protocols and associated rules that need revision to improve performance or clarity. Any identified improvements to the Board Manual or regulations should be implemented at the soonest practical time. Subsequent to this effort, the administrator will offer to provide this training to the Board.	75%

Project #/Name	Project Description	% Complete
6 - CMER Project Flagging Process	The AMP Manager, with the assistance of the co-chairs of Policy and CMER Committees, will initiate a process for flagging projects for the attention of Policy that are having trouble with their design or implementation. This process should identify projects not proceeding on a schedule reflecting a realistic but expedient pace (i.e., a normal amount of time to complete scoping, study design, site selection, etc.).	100%
7 - Rule Element Sampling	DNR in partnership with Ecology and with the aid of the CMP stakeholder guidance committee will develop general plans and timelines for exploring options and data collection methods for assessing compliance with rule elements such as water typing, shade, wetlands, haul roads and channel migration zones. The goal is to initiate these programs by December 2011.	100%
8 - Field Dispute Resolution	DNR, with assistance of Ecology and WDFW, will evaluate the existing process for resolving field disputes and identify improvements that can be made within existing statutory authorities and review times. Although resolution of the specific issue at hand should be a goal, the overarching purpose of this milestone is to establish a process that will identify the basis for the dispute, and to put in place revised guidance, training, reporting pathways, other measures that will minimize the reoccurrence of similar disputes in the future. This process should consider how to best involve the appropriate mix of both policy and technical participants to thoroughly resolve the issue at hand.	100%
9 - Stakeholder Road Maintenance and Abandonment Plan (RMAP) Participation	As part of the RMAP annual meeting process, DNR should ensure opportunities are being provided in all the regions to obtain input from Ecology, WDFW, and tribes formally participating in the forest and fish process regarding road work priorities.	99%
10 - Water Type Modification Review Process	DNR in consultation with WDFW, Ecology, and the tribes will develop a prioritization strategy for water type modification. The intent of this strategy will be to manage the number of change requests sent to cooperating agencies for 30-day review so it is within the capacity of those cooperators to respond to effectively. The strategy should consider standardizing the current ad hoc process of holding monthly coordination meetings with agency and tribal staff in all the DNR regions. This should allow group knowledge and resources to be more efficiently used to evaluate change requests.	100%

Project #/Name	Project Description	% Complete
11 - Water Typing On Line Guidance	DNR Forest Practices will establish online guidance that clarifies existing policies and procedures pertaining to water typing. The intention is to ensure regional staff and cooperators remain fully aware of the most current requirements and review processes for changing water type and coordinating the review of multidisciplinary teams.	95%
12 - Certification Framework	DNR, with consultation with Ecology and WDFW (or with the Compliance Monitoring Program stakeholder guidance committee), will establish a framework for certification and refresher courses for all participants responsible for regulatory or CMP assessments. This will be focused on aiding in the application of rules regarding bankfull width, channel migration zone boundaries, application of road rules, and wetlands. Consideration should be given to including a curriculum of refresher courses on assessing difficult situations.	15%
13a, b, c - Individual Landowner Tracking	By June 2010, DNR, Ecology, and WDFW will meet to review existing procedures and recommend improvement needed to more effectively track compliance at the individual landowner level. The goal will be to ensure the compliance pattern of individual landowners can be effectively examined. This should consider the types and qualities of enforcement actions that occur (e.g., conference notes, notices of correction, stop work orders, penalties.)	13a - 100% 13b - 100% 13c - 0%
14 - Riparian Non-Compliance	DNR, with the assistance of Ecology, will assess the primary issues associated with riparian noncompliance (using the CMP data) and formulate a program of training, guidance, and enforcement believed capable of substantially increasing the compliance rate - with a goal of getting greater than ninety percent compliance by 2013. Ecology will consider the rating of noncompliance, since not all infractions have the same effect on public resources (e.g., is it predominately at levels within reasonable field method limits, or likely to occur even with due diligence) when determining if this compliance target rate milestone has been satisfied.	70%
15 - Small Forest Landowner Road Risk Evaluation Strategy	Ecology, in partnership with DNR and in consultation with the Small Forest Landowner advisory committee, will develop a plan for evaluating the risk posed by roads on small forestland ownerships for the delivery of sediment to waters of the state.	5%

Project #/Name	Project Description	% Complete
16 - Type N Rules Evaluation Strategy	<p>Policy, in consultation with CMER, will develop a strategy to examine the effectiveness of the Type N rules in protecting water quality at the soonest possible time. This strategy needs to include at a minimum:</p> <ol style="list-style-type: none"> 1. Ranking and funding of the Type N studies as highest priorities for CMER research. 2. By July 2012, developing a protocol for identifying with reasonable accuracy the uppermost point of perennial flow, or develop documentation demonstrating the spatial and temporal accuracy of the existing practice used to identify this point. 3. By Sept. 2012, completing a comprehensive literature review examining the effects of buffers on streams physically similar to the Type Np waters in the Forest Practices Rules prior to completion of the Type N basalt effectiveness study. This should be conducted or overseen by CMER (or conducted by an independent research entity). 	25%
17 - Alternate Plan Evaluation	<p>DNR, in partnership with Ecology, and in consultation with WDFW, the Tribes, and the Small Forest Landowner advisory committee, will design a sampling plan to gather baseline information sufficient to reasonably assess the success of the alternate plan process. This sampling plan should include how to select sample sites, how to best document the content and assumptions contained in the alternate plan, what to monitor and how frequently to do so, and responsibilities for who will conduct the sampling. The goal of this effort is to initiate data collection in the 2011 field season.</p>	80%
18-Independent Adaptive Management Program Review	<p>The Adaptive Management Program administrator shall initiate the process of obtaining an independent review of the AMP. This review shall be done by representatives of an independent, third party research organization.</p>	5%
19 - Water Type Modification Strategy Review	<p>DNR in consultation with WDFW, Ecology, and the Tribes will complete an evaluation of the relative success of the water type change review strategy. Results of this review would be used to further refine the strategy.</p>	90%

Project #/Name	Project Description	% Complete
20 –Road Maintenance and Abandonment Plan Summary	DNR, with the assistance of large landowners, will provide summary information for all industrial landowners having RMAPs. The summary information will include at a minimum: Date the Road Maintenance and Abandonment Plan was completed, total miles of road covered under the RMAP, total miles describing the strategy for bringing all roads into compliance by 2016 that demonstrates evenflow or otherwise provides confidence that compliance will be attained by 2016. If reasonable and feasible, the summary will show the annual progress on road and barrier improvement that has occurred since the inception of the Road Maintenance and Abandonment Program, and DNR will provide a master summary for all industrial landowners combined.	<1%

Appendix #2a



Caring for
your natural resources
... now and forever

September 30, 2010

Ms. Kirstan Arestad
Senior Budget Assistant
Office of Financial Management
PO Box 43443
Olympia, WA 98504-3443

Re: Forestry Riparian Easement Program Recommendations

Dear Ms. Arestad:

The Legislature created the Forestry Riparian Easement Program (FREP) in 1999 to help offset the diminishing economic viability of small forest landowners from disproportionate impacts of increasing regulatory requirements (RCW 76.13.100). FREP purchases 50-year conservation easements along riparian areas from small forest landowners who have provided riparian protections required by the Forest Practices Rules. Since 2001 the program has purchased 278 easements on more than 4,300 riparian acres. The Department of Natural Resources has submitted a state building and capital account proposal for \$10 million to fund the existing backlog of FREP applications.

In the Supplemental Capital Budget for the 2010 Legislative session (ESHB 2836§ 3041(6)), the legislature directed the Department of Natural Resources (DNR) to work with interested participants to develop recommendations for changes to the FREP (attachment F). The legislature requested FREP reform to clarify eligibility provisions, add prioritization criteria to ensure funding of highest priority easements first, and to find efficiencies in the acquisition process. Recommendations were to be in the form of draft legislation.

In addition the supplemental capital budget appropriation for this fiscal year required DNR to prioritize funding of forest riparian easements. Ninety percent of small forest landowners with existing FREP applications responded with the required additional information, which enabled DNR to follow the legislature's prioritization. Pending Office of Financial Management approval to hire temporary staff and to award personal service cruise contracts, DNR will proceed with easement acquisitions funded under the FY 2011 appropriation.

Highlights of the Recommendations

For a more complete description of the FREP recommendations, the process utilized by the department and the outcome of that process, see attachment A.



DNR provided draft recommendations to interested parties, and solicited participation via mail and email invitations to three open house public meetings. The overwhelming participant response was to not add prioritization or eligibility criteria to the FREP. Participants believe FREP is a mitigation commitment made by the legislature to all small forest landowners with the adoption of the Forests and Fish Report (FFR), to offset the disproportionate economic impacts the FFR rules would have on small forest landowners. As such, they believe FREP should have a dedicated funding source.

In addition, small forest landowners believe prioritization already has occurred in that FREP focuses on riparian areas determined to be necessary for sustaining and restoring aquatic species covered by the Forest Practices Habitat Conservation Plan.

After careful consideration of participant comments, our own experience implementing FREP over the last nine years and the stated intent from RCW 76.13.100, we recommend the following revisions to the FREP. These recommendations seek to balance public input, administrative complexity and costs, and better focus of limited FREP funding.

The final FREP recommendations in the form of legislation (Attachment B) have revised the eligibility, prioritization and acquisition process as follows:

Added Eligibility Requirements:

- Applicant(s) must have had legal majority ownership of the land associated with the easement area prior to July 1, 2011, or have the property legally transferred from a lineal ancestor meeting this condition
- Applicant has no outstanding violations of the Forest Practices Act and rules
- Applicant's small forest landowner status is verified at easement transaction

Amended Qualifying Timber Requirements:

- Trees within riparian areas, channel migration zones or areas that are uneconomic to harvest due to above restrictions, but not including trees on unstable slopes outside riparian areas and channel migration zones
- Trees without harvest restrictions from conditions of an existing conservation easement

Added Prioritization Element:

- Priority shall be given to small forest landowners whose land is under a long-term forest stewardship plan that is recognized by the department

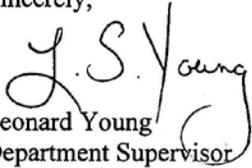
Amended Processing Efficiencies:

- Initiate cruising contracts and establish the dollar value of easement after receipt of documentation of harvest completion

Ms. Kirstan Arestad
Page 3 of 3
September 30, 2010

Please share this report with committee members who may be interested, and direct any questions about the report or the specific recommendation to Marc Engel, Assistance Division Manager for Policy and Services, Forest Practices Division at marc.engel@dnr.wa.gov or 360-902-1390.

Sincerely,


Leonard Young
Department Supervisor

Enclosures (5)

c: Heath Packard, Director of Legislative and External Affairs
Chuck Turley, Deputy Supervisor for Regulatory Programs
Darin Cramer, Forest Practices Division Manager
Marc Engel, Forest Practices Assistant Division Manager, Policy and Services

Appendix #2b

Attachment A

Recommendations for the Forestry Riparian Easement Program September 27, 2010

Background.....	1
Introduction.....	1
I. 2010 Budget Proviso Elements Proposed as Eligibility Criteria for Legislation.....	2
II. New Eligibility Criteria Proposed for Legislation.....	3
III. 2010 Budget Proviso Elements Proposed as Prioritization Criteria for Legislation.....	3
IV. 2010 Budget Proviso Elements not Proposed as Prioritization Criteria for Legislation.....	3
V. Acquisition Process Improvements Proposed for Legislation.....	4
Conclusion.....	5
Attachments	
B - Recommendations in the form of Legislation	
C - Interested Stakeholder–invite list	
D - Comments received thru 8-12-2010	
E - Comments received thru 9-10-2010	

Background

The 1999 Salmon Recovery Act (Act) was passed to assist in providing substantial and sufficient recovery of salmon while maintaining a viable forest products industry. The Act included a key component which required the establishment of a Small Forest Landowner Office (SFLO). The SFLO was established in the Forest Practices Division of the Department of Natural Resources to provide assistance to small forest landowners as they implemented the Forest Practices Rules. The SFLO administers programs for small forest landowners including the Forestry Riparian Easement Program and the Family Forest Fish Passage Program, provides assistance to small forest landowners in the alternate planning process and with completing forest practices applications.

The Legislature created the Forestry Riparian Easement Program (FREP) in 1999 to help offset the diminishing economic viability of small forest landowners from increasing regulatory requirements (RCW 76.13.100). FREP purchases 50-year conservation easements along riparian areas from small forest landowners. FREP was designed to compensate small forest landowners for 50-89 percent of the value of trees in riparian areas which they are prohibited from harvesting by the Forest Practices Rules. FREP fulfills a core commitment of the Forest & Fish Report and the Forest Practices Habitat Conservation Plan. Establishing 50-year forestry riparian easements facilitates compliance with the Clean Water Act and aids in the restoration of Puget Sound. FREP also helps safeguard the state against claims of regulatory takings.

Introduction

In the Supplemental Capital Budget for the 2010 Legislative session (ESHB 2836§ 3041(6)), the legislature directed the Department of Natural Resources (DNR) to work with interested stakeholders to develop recommendations for changes to the FREP. These recommendations are to clarify eligibility provisions, add prioritization criteria to ensure funding of highest priority easements first and to find efficiencies in the acquisition process. The legislature further directed DNR to consider including elements of the budget proviso criteria (stated in ESHB 2836, §

Attachment A

3041(3) and (4)) in the recommendations. DNR was instructed to make FREP recommendation's in the form of proposed legislation (attachment B).

DNR provided draft recommendations to interested stakeholders and solicited participation via mail and email invitations to three open house public meetings. The meetings were held in Spokane, Centralia, and Olympia. These meetings were held to receive feedback on draft program revisions based on elements in the budget proviso and additional reform criteria proposed by staff. DNR also provided an email address, located on DNR's FREP and SFLO websites, for stakeholders that could not participate in the open houses, to provide comments on the draft recommendations. All comments that were generated from the open houses and received through email are posted to the website (attachments D and E) and were also emailed to all the interested stakeholders (attachment C).

The overwhelming stakeholder response received through the open house meetings and written comments was to not add prioritization or eligibility criteria to FREP. Stakeholders believe FREP is a mitigation commitment made by the legislature to all small forest landowners with the adoption of the Forests and Fish Report (FFR), to offset the disproportionate economic impacts the FFR rules would have on small forest landowners. Small forest landowners believe prioritization has already occurred in that FREP focuses on riparian areas determined to be necessary for sustaining and restoring aquatic species covered by the Forest Practices Habitat Conservation Plan. Adding eligibility and prioritization criteria would be redundant, increase administrative costs and exclude some small forest landowners from the FREP mitigation.

The following are staff recommendations for each of the elements found in the budget proviso. Some of the elements that ESHB 2836 established as high and low priority criteria were not incorporated into this proposal due to stakeholder opposition or added administrative complexity. This complexity would increase staff time as well as reduce the amount of money available for riparian easement purchases. Staff is recommending several eligibility criteria, some based on proviso elements, and continuing use of the date of receipt of completed harvest to prioritize funding. Staff also recommends adding one new prioritization element from the budget proviso, that being FREP applications for lands under a long term forest stewardship plan recognized by the department.

- I. **2010 Budget Proviso Elements Proposed as Eligibility Criteria for Legislation (if an applicant meets one or more they would be ineligible for FREP)**
 - A. **Proviso element (4b): The applicant has had legal ownership for less than five years, except when the applicant is a lineal descendant of a landowner meeting this criterion.** Staff recommends a version of this 2010 Budget Proviso element as an eligibility criterion. Applicant(s) that have purchased the land associated with the easement area after July 1, 2011, unless the property was legally transferred from a lineal ancestor. Landowners that purchased their land after July 1, 2011 made their forest land investment under the current regulatory climate; therefore, the economic impact of the rules should have been reconciled at the time of the transaction.
 - B. **Proviso element (4c): The applicant has an outstanding violation of the forest**

¹ Date the Legislation becomes effective.

practices act under chapter 76.09 RCW. Staff recommends expanding the existing verification of compliance with Forest Practices Rules regarding leave trees in the easement areas to forest practices violations not yet reconciled.

- C. **Proviso element (4e): The application is for land on which other conservation easements have been executed and recorded on the title.** Staff recommends proposing a version of the 2010 Budget Proviso element as an eligibility criterion. The proposed change is necessary because of the statute definition of Qualifying Timber. The proposed clarification to the Qualifying Timber definition would make those trees under existing harvest restrictions ineligible due to another conservation easement.

II. **New Eligibility Criteria Proposed for Legislation**

- A. **Staff recommends the SFLO determine the applicant qualifies as a small forest landowner on the date the forestry riparian easement occurs rather than on the date receipt of the forest practice application.** Staff recommends verification of small forest landowner status to the more relevant forestry riparian easement transaction date.
- B. **All rule identified unstable slope areas outside of the riparian management zones are ineligible as qualifying timber.** Staff recommends adding this eligibility criterion to the Legislation. Two key reasons staff is proposing carrying this eligibility criterion forward are:
1. The Forestry Riparian Easement Program RCW 76.13.120 states, "...the state should acquire easements along riparian and other sensitive aquatic areas..." Unstable slopes are not listed within this language.
 2. Staff has seen a disproportionate amount of funds used for purchase of riparian easements on unstable slopes. FREP funds would be focused to the acquisition of riparian areas for the protection of aquatic resources and areas made uneconomic to harvest. More than \$3million of FREP funds have been utilized for purchase of unstable slopes.

III. **2010 Budget Proviso Elements Proposed as Prioritization Criteria for Legislation**

- A. **Proviso element (3d): Lands that are certified by a forest certification program recognized by the department.** Staff recommends proposing a version of the 2010 Budget Proviso element as a prioritization criterion. Landowners whose land are under a long term forest stewardship plan recognized by the department have invested in forest management and are less likely to convert their land to another use.

IV. **2010 Budget Proviso Elements not Proposed as Prioritization Criteria for Legislation**

- A. **Proviso element (3a): The greatest proportion of riparian buffer impacted in the related forest practices application.** This criterion would increase administrative cost and complexity in implementation, diminishing funds available for easement acquisitions and there is potential for manipulating forest practice application size and number in order to increase funding priority.

- B. Proviso element (3b): Lands in deferred tax status of classified timber land or classified open space as defined in RCW 84.34.020.** Landowners have a variety of reasons for having their forest land in different tax status, and the local government entity ultimately determines the eligibility for tax designation.
 - C. Proviso element (3c): Lands at greatest risk of conversion to other land uses as determined by county zoning and land classifications and proximity to urban growth areas or other areas of concentrated land development.** This criterion would favor applications in areas with dense populations, favors western Washington over eastern Washington and would likely pose greater compliance risk.
 - D. Proviso element (3e): The applicant has not received a forestry riparian easement since July 1, 2007.** This criterion could encourage larger harvest units and accelerated harvests in order to aggregate harvest activities into one easement application.
 - E. Proviso element (3f): The applicant is not a nonprofit organization.** Forest Practices rules do not currently differentiate nonprofit organizations from other small forest landowners.
 - F. Proviso element (3g): The applicant has been waiting three years or more for a forestry riparian easement purchase.** Because staff recommends retaining the prioritization element “first in line - first in time,” this criterion would be redundant.
 - G. Proviso element (4a): The forest management activities for the aggregated ownership of the landowner referenced in the application, his or her spouse, and his or her children exceed the small forest landowner definition in RCW 76.13.120(2) (c).** Individuals can have various ownership names that make verification difficult. Changing this provision to include aggregated ownership would add complexity and decrease the authenticity of the results.
 - H. Proviso element (4d): The applicant is in default on a financial obligation to an agency of the state including noncompliance with a child support order under RCW 74.20A.320.** The increased cost and complexity to verify applicants are not in default of financial obligations to the state would diminish funds available for easement acquisitions.
 - I. Proviso element (4f): The land is owned by a nonprofit organization that does not have deferred tax designations of either classified timber land or classified open space as defined in RCW 84.34.020 and does not have a county-recognized forest management plan.** A landowner meeting this criterion would be extremely rare and is a combination of two previous criteria already addressed.
- V. Acquisition Process Improvements Proposed for Legislation**
Below are staff’s recommended improvements to the program’s acquisition process which are not in the 2010 Budget Proviso.
- A. Initiate cruising contracts as soon as possible after receipt of documentation of harvest completion (Harvest Status Questionnaire) and eligibility confirmation.** This will allow DNR to cruise the easement area as soon as possible after harvest, solving the current problem of lost value to the landowner through fire, insects, storm damage, and wind-thrown trees.

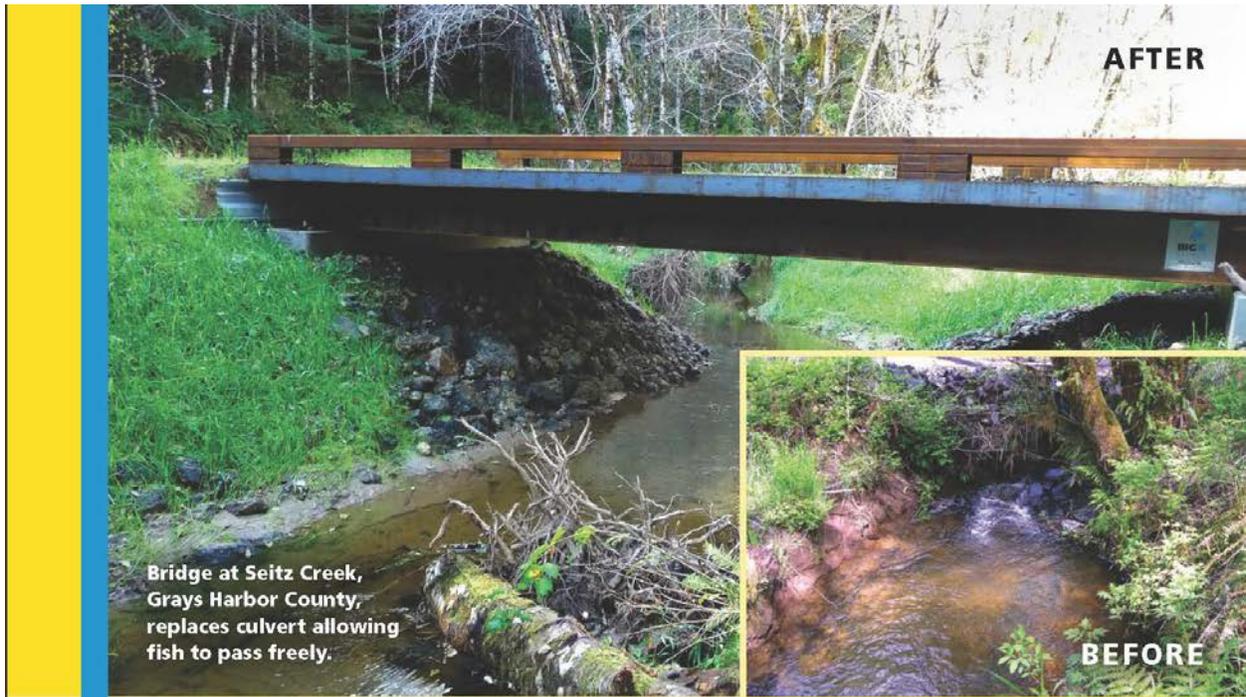
Attachment A

- B. Establish the dollar value of the easement based on receipt of the documentation of harvest completion (Harvest Status Questionnaire).** This change will establish transaction values closer to the completion date of the harvest and reduce administrative costs.

Conclusion

The Department of Natural Resources, in response to ESHB 2836§ 3041(6), has developed recommendations for changes to the FREP. Those recommendations include: clarified eligibility provisions, added prioritization criteria to ensure funding of highest priority easements first and identified efficiencies in the acquisition process. The department's recommended legislation considered the budget proviso criteria regarding eligibility and prioritization, feedback from interested stakeholders, and recommendations from DNR staff.

Appendix #3



Bridge at Seitz Creek, Grays Harbor County, replaces culvert allowing fish to pass freely.

Family Forest Fish Passage Program

2010 Implementation Report

A Cost-Share Program for Small Forest Landowners to Improve Fish Passage



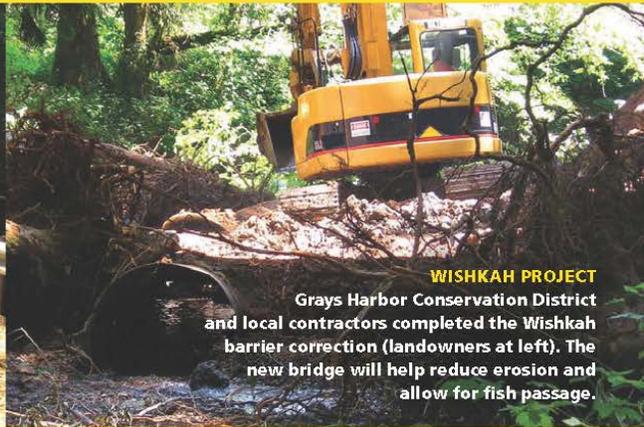
Washington Department of FISH and WILDLIFE



WASHINGTON STATE Recreation and Conservation Office



WASHINGTON STATE DEPARTMENT OF Natural Resources Peter Goldmark - Commissioner of Public Lands



WISHKAH PROJECT
Grays Harbor Conservation District and local contractors completed the Wishkah barrier correction (landowners at left). The new bridge will help reduce erosion and allow for fish passage.

“ I am absolutely tickled with the quality of the project and to have fish returning to our creek this fall. When the road was put in 50 years ago we had no idea the impact it would have on generations of salmon. We are very thankful for the Family Forest Fish Passage Program and to have fish returning and a new bridge to access our tree farm.”

HERB AND DELORES WELCH
SMALL FOREST LAND OWNERS
[WISHKAH PROJECT]

It is estimated that for every \$100,000 invested in fish passage projects, 1.57 local jobs are created during the construction season. This estimate does not include the additional indirect jobs like culvert and bridge manufacturing.

Investment in Removal of Fish Barriers Pays Many Dividends

With the passage of the 1999 Forest and Fish rules, new regulations were established that required all forest landowners to replace fish barriers on streams associated with their forest road crossings. To a small landowner, this cost (\$50,000 to \$150,000) can be substantial and raise the risk that they might sell their lands to developers. Recognizing these potential impacts, the 2003 Washington State Legislature created the Family Forest Fish Passage Program to help reduce the regulatory and monetary burdens on small family forest landowners and reconnect critical fish habitat.

A legislative investment of \$17 million during the last seven years has paid dividends: 500 miles of fish habitat are reconnected and 232 fish barriers corrected.

The job is not done however. Currently, there is a backlog of more than 400 landowners who have applied to the program to have barriers corrected and fish habitat reconnected.

The average cost to correct a fish barrier in 2008-2009 was \$88,000. Current funding allows for about 30 projects a year, which creates about 50 jobs during the construction season.

The Wishkah project featured in this report was completed in 2010 for Herb and Dolores Welch. The United States Fish & Wildlife Service (USFWS) shared funding via a restoration grant.

The Welch family has managed its tree farm since the late 1930s. Herb remembers scores of salmon returning to the creek each fall until the culvert became a barrier.

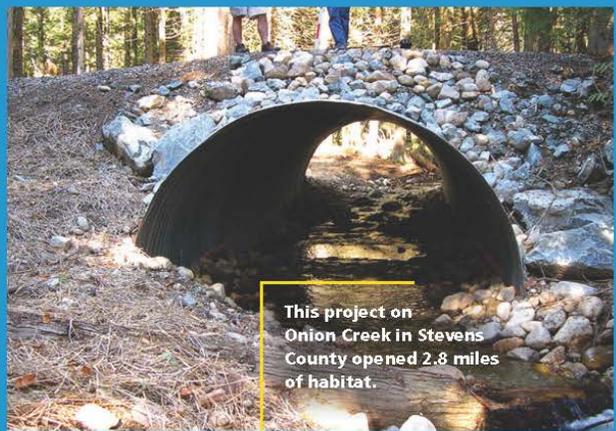
“They were so thick you could pitch-fork them from the bank,” he said.

Now, with the help of the sponsor (Grays Harbor Conservation District) and the Family Forest Fish Passage Program, those teams of fish are expected to return to the stream any day.

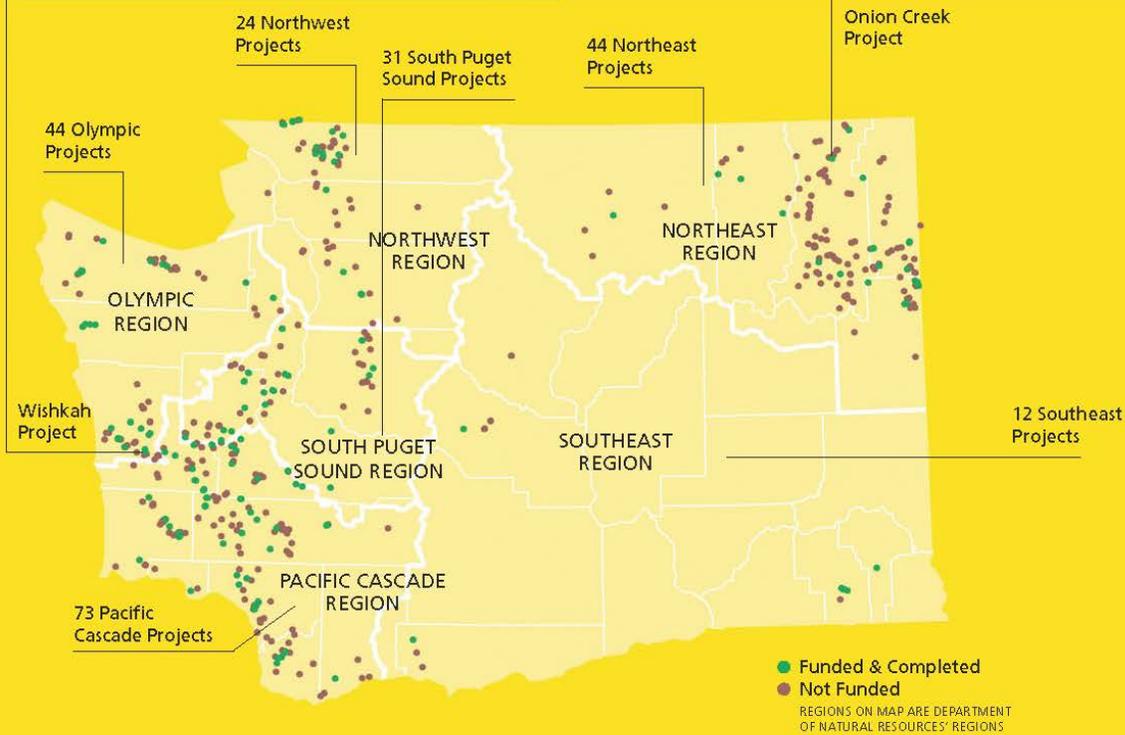
PHOTOS BY LAURA TILL AND DAVID BERGVALL



Final installation of the new fish friendly bridge on the Wishkah project.



This project on Onion Creek in Stevens County opened 2.8 miles of habitat.



Funded and Unfunded Family Forest Fish Passage Projects

Fish Program Aids Small Forest Landowners

3.2 million acres* of forestland in Washington are owned by small forest landowners. **Ten thousand miles** of fish-bearing streams flow through these mid- and low-elevation forest lands and provide high value, prime

fish habitat. Small family forest landowners have long periods of time between harvests and significant financial burdens to implement fish barrier corrections and road maintenance projects. The state Family Forest Fish Passage

Program provides financial assistance to small family forest landowners and is one of the critical links in a comprehensive approach to forest road management.

* ROGERS, LUKE W., A. COOKE. (2010). THE WASHINGTON STATE FORESTLAND DATABASE (2007 VERSION, RELEASE 2). DIGITAL DATA, MARCH, 2010. SEATTLE, WA, UNIVERSITY OF WASHINGTON.

// The Family Forest Fish Passage Program is a well-managed government program which uses public tax dollars prudently for the benefit of the public resource and small forest land owners."

SAM COMSTOCK
WASHINGTON FARM FORESTRY ASSOCIATION

Road to Recovery

The Family Forest Fish Passage Program is implemented by three state agencies: Washington State Department of Fish and Wildlife, Washington State Department of Natural Resources, and the Recreation and Conservation Office. Each agency brings its expertise to oversee the program's operations, outreach and project selection processes. An oversight steering committee approves annual projects and keeps procedures current. The Washington Farm Forestry Association joins the steering committee as a landowner organization.

The Family Forest Fish Passage program recognizes the critical role small family forest landowners' play in salmon populations and is committed to assisting with their economic viability. The Family Forest Fish Passage Program benefits are seen through:

- Creating jobs and economic opportunities in rural communities.
- Honoring and implementing Indian treaty fishing rights.
- Sustaining our forest industry and encourage renewable green products.
- Improving water quality in forested watershed by reducing sediment delivery to streams and spawning areas.
- Minimizing flooding and the downstream harm to habitat and property.
- Helping the recovery of Puget Sound.

Local Groups are the Cornerstone to the Program

Local groups (sponsors) experienced in fish passage corrections complete most of the projects. Sponsors manage the project design, construction oversight, permitting, billing,

and grant management. A sponsor may be a Conservation District, Regional fisheries enhancement group, Local fish-related non-profit organization, Tribe, or other interested organization.

Project Sponsors

REGIONAL FISHERIES ENHANCEMENT GROUPS

Chehalis Basin Fisheries Task Force
Hood Canal Salmon Enhancement Group
Mid-Sound Salmon Enhancement Group
Nooksack Salmon Enhancement Association
Skagit Fisheries Enhancement Group
South Puget Sound Salmon Enhancement Group
Stilly-Snohomish Task Force
Tri-State Steelheaders
Willapa Bay Fisheries Enhancement Group

PRIVATE SPONSORS

Fisheries Consultants
Frame, LLC
LWC Consulting
PB Lumber
Pacific Coast Salmon Coalition
Pacific Forest Management
Stewardship Partners
Wild Fish Conservancy

CONSERVATION DISTRICTS

Cascadia Conservation District
Clallam Conservation District
Clark Conservation District
Cowlitz Conservation District
Ferry Conservation District
Grays Harbor Conservation District
Jefferson County Conservation District
Kitsap Conservation District
Kittitas County Conservation District
Lewis County Conservation District
Mason Conservation District
Okanogan Conservation District
Pacific Conservation District
Pend Oreille Conservation District
Spokane County Conservation District
Stevens County Conservation District
Thurston Conservation District
Underwood Conservation District
Wahkiakum Conservation District

TRIBES

Confederated Tribes of the Colville Reservation
Confederated Tribes and Bands of the Yakama Nation
Kalispel Tribe of Indians
Lower Elwha Klallam Tribe
Nooksack Indian Tribe
Spokane Tribe of Indians
Stillaguamish Tribe of Indians
Tulalip Tribes

How Do I Get More Information?

Visit our website:
www.dnr.wa.gov/sflo

Program Partners

PROGRAM OUTREACH

Department of Natural Resources Small Forest Landowner Office

Natural Resources Building
1111 Washington Street
MS 47012
Olympia, WA 98504-7012
(360) 902-1400
TTY: (360) 902-1125 TRS: 411
www.dnr.wa.gov

PROJECT EVALUATION AND RANKING

Department of Fish and Wildlife Habitat Management Program

600 Capitol Way
Olympia, WA 98501-1091
(360) 902-2352
TTY: (360) 902-2207
www.wdfw.wa.gov

PROGRAM FUNDING

Recreation Conservation Office

Natural Resources Building
MS 40917
Olympia, WA 98504-0917
(360) 902-3000
TDD: (360) 902-1996
www.rco.wa.gov

LANDOWNER ORGANIZATION

Washington Farm Forestry Association

PO Box 1010
Chehalis, WA 98532
Contact: Sam Comstock (360) 736-5750
<http://www.wafarmforestry.com/>

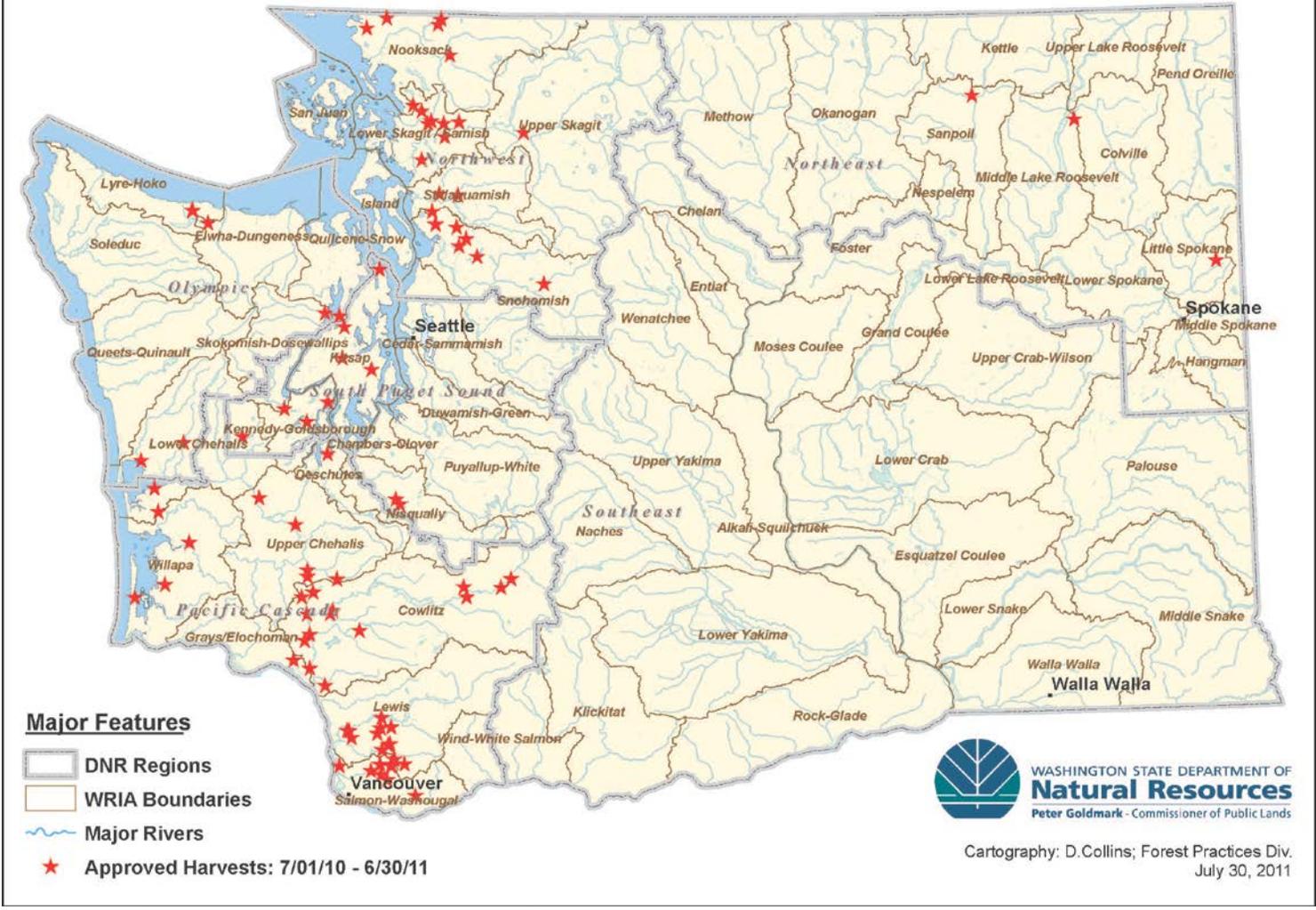
The above agencies are responsible for implementing the program. The Washington Farm Forestry Association joins the agencies on a steering committee.

PRINTED ON RECYCLED PAPER
DECEMBER 2010



Appendix #4a

20 Acre Exempt Forest Practices Harvest Applications Near S or F Waters Between 2010 - 2011



Appendix #4b

Approved 20 Acre Exempt Forest Practices Harvest Applications Near S or F Waters Between 2006 - 2011



Approved Harvests

- 7/01/06 - 6/30/07
- 7/01/07 - 6/30/08
- 7/01/08 - 6/30/09
- * 7/01/09 - 6/30/10
- ★ 7/01/10 - 6/30/11

Major Features

- DNR Regions
- WRIA Boundaries
- ~ Major Rivers



Cartography: D.Collins; Forest Practices Div.
July 30, 2011

Appendix #5



WASHINGTON STATE DEPARTMENT OF
Natural Resources
Peter Goldmark - Commissioner of Public Lands

Caring for
your natural resources
... now and forever

May 9, 2011

MEMORANDUM

To: Forest Practices Board

From: Darin Cramer, Division Manager 
Julie Sackett, Assistant Division Manager for Operations 

Subject: Compliance Action Plan

The 2008-2009 Forest Practices Compliance Monitoring Report (published January 2011) identified the following areas requiring further attention by the program:

- Water type classification determinations
- Riparian non-compliance
- Riparian 20-acre exempt non-compliance
- Road non-compliance
- Type A wetland non-compliance

Water Type Classification Determinations

While compliance monitoring did not make a compliant/non-compliant call with regard to water typing, water type classification information/documentation was missing from the forest practice application (FPA), or inconsistent with field observations in several cases observed by field crews. In order to gain a better understanding of whether water type classification determinations are being identified correctly on the ground, and minimize risks associated with inaccurate water typing, the program is implementing the following actions:

1. Updating the program's website for general water typing information; providing 'how to' and guidance;
2. Developing an external website for water type modification proposal review and information transparency;
3. Providing access to approved water type modification form information on the FPARS mapping site;
4. Ensuring water type classification information/documentation is included as part of a complete FPA;
5. Develop and implement special emphasis sampling through the Compliance Monitoring Program, which will provide rapid feedback to field staff (through region staff meetings) and landowners (through TFW meetings) on findings.

FOREST PRACTICES DIVISION ■ 1111 WASHINGTON ST SE ■ MS 47012 ■ OLYMPIA, WA 98504-7012
TEL (360) 902-1400 ■ FAX (360) 902-1428 ■ TTY (360) 902-1125 ■ TRS 711 ■ WWW.DNR.WA.GOV



EQUAL OPPORTUNITY EMPLOYER



Riparian Non-Compliance

The riparian rules are complex and site conditions are highly variable making it difficult to precisely determine the reasons for non-compliance. However, Compliance Monitoring staff believe inaccurate measurement of stream length may be a primary contributor to at least some of the non-compliance ratings (applies to both 'F' and 'Np' streams). To address this issue the program will implement the following actions:

1. Develop specific guidance (operational and Board Manual) on how to measure stream length on the ground;
2. Develop and implement special emphasis sampling through the Compliance Monitoring Program, which will provide rapid feedback to field staff (through region staff meetings) and landowners (through TFW meetings) on findings.

Riparian 20-Acre Exempt Non-Compliance

Landowners who qualify for the 20-acre exemption typically harvest only once during their ownership of the parcel and are generally unfamiliar with Forest Practices regulations. This creates a high potential for rule violations. At this time we do not have enough information to precisely determine the reason(s) for non-compliance, but expect lack of familiarity with the rules is a contributing factor. Therefore, in order to help inform the program and begin addressing this issue the following actions will be implemented:

1. Add approval condition on each 20-acre exempt riparian harvest FPA that applicant must notify the forest practices program 48-hours prior to beginning harvest operations;
2. Forest practice forester will make a minimum of two on-site evaluations during active period of FPA;
3. Continue compliance monitoring surveys of 20-acre exempt harvests.

Road Non Compliance

Compliance Monitoring did not examine the level of detail needed (i.e., specific rules and/or BMPs not applied) to determine exact reasons for road non-compliance. Therefore, in order to minimize risks and provide ongoing feedback regarding compliance performance, the program will implement the following actions:

1. Provide discussion/training opportunities to landowners and operators regarding road BMPs through regional TFW meetings;
2. Continue WA Contract Loggers Association training on road BMPs;
3. Develop program guidance/expectations on enforcement action decisions/documentation relating to roads and sediment delivery;
4. Emphasize close working relationship between program staff and ecology staff;
5. Focus on implementing the RMAP operational plan;
6. Continue compliance monitoring surveys of road activities.

Type A Wetland Non Compliance

The sample size for Type A wetlands was low but it did indicate non-compliance was associated only with small forest landowners (three non compliant determinations out of eight samples conducted on small forest land ownership). Specific information is not available to determine the exact reasons for non compliance so we are unable to pin-point whether these landowners had difficulty in properly identifying Type A wetlands or whether it was difficulty in applying the appropriate buffer protection (or both). In response, the program will implement the following actions:

1. Provide discussion/training opportunities to landowners and operators regarding proper wetland identification (with an emphasis on Type A) through regional TFW meetings;
2. Continue WA Contract Loggers Association training on wetland identification;
3. Conduct a follow-up compliance emphasis sample.

Ongoing Evaluation of Compliance Monitoring Program Efficiency/Effectiveness

While valuable, the Compliance Monitoring Program is an expensive and time consuming effort. Given decreasing resources we must find ways to achieve our desired performance objectives at lower costs, while at the same time ensuring fair and meaningful methods are employed. The program is thoroughly examining our approach to compliance monitoring to determine if/how we can achieve better results at the same or lower costs.

Other Desired Actions Dependent upon Funding

There are additional areas that should be addressed as part of a comprehensive plan for improving compliance. The program has prioritized restoring (or increasing capacity in) the following areas if/when resources become available:

- Training - training is a key element to successful implementation of, and compliance with the rules. It has been ten years since there was a concerted effort to train not only program staff but all stakeholders in a comprehensive manner (2001 rules). It has been approximately four years since program staff was jointly trained at the statewide level.
- Communication - Following up training with consistent and constant internal communication with program staff is essential in achieving understanding and support for agency and program objectives
- Staff resources - Region regulatory and technical assistance staff capacity is insufficient to conduct compliance visits to as many sites as we would like as often as we would like, or provide non-regulatory technical assistance to small forest landowners. In addition, division staff directly supporting region operations has insufficient capacity to respond adequately to requests for assistance. This gap is widening due to decreasing resources and increasing demands from a variety of fronts. As the timber market recovers, and/or new responsibilities come our way, this problem will be exacerbated.