

DNR-FREP Reform REPORT BY COMMENT-ISSUES

Comment Issue: *Comments:* *Location:*

Regarding eligibility. I disagree with your view that lands purchased after Forest and Fish Implementation should not qualify because “landowners knew what they were getting into”. Many forest landowners did not and still don’t know what they were getting into. In fact until a harvest area is recon’d, laid out and DFC’d, and reviewed by DNR, WDFW, Tribal biologists and slope stability experts.....you don’t know the true impact of forest and fish rules. How many small forest landowners (SFLO’s) do you know that go to this extent before purchasing their property? They just don’t. These aren’t like large landowners who may do extensive due diligence. Often the immediate harvest of timber is not the SFLO’s primary concern. They never know the true impact of Forest and Fish until the boundaries are put on the ground often with considerable expense including hiring a forestry consultant and possibly a slope stability specialist.

In addition..... in September 2009 landowners received additional restrictions when the basal area requirement for Fish bearing streams was significantly increased to 325 BA. This increase requires leaving an additional 10-20% more trees in Riparian Management Zones. In fact it often results in the placement of “no cut” rather than “thinning” buffers. This has resulted in additional negative economic impacts on Small Forest landowners.

Using the same logic as the proposed eligibility change.....Landowners could not have predicted this DFC change was coming.....Landowners who purchased land between 2000 (FF Implementation) and 2009 (DFC Rule change)bought land with the thinking that if they followed the FP rules then they could have a viable small forest operation. Then the rules change requiring more trees to be left. Now DNR proposes that they become ineligible altogether even though they followed the rules and conducted forest operations with the promise that FREP would be available at least at some point.

When the economic impacts of the Forest and Fish rules were considered..... the disproportional impact wasn’t only on small forest landowners who bought land before the rules were implemented. The disproportional impact was on future small forest landowner operations. It makes no sense to only look backwards at eligibility when the economic impact study looked forwards.....predicted a difficult outcome for SFLO’s and prescribed a remedy (FREP). The remedy was for post FF implementation. This proposed eligibility restriction places a further burden on small forest landowners and deserves a full economic impact study if you wish to pursue implementing this recommendation.

Sub Issue: Forest certification SFL

As noted above these intended certification systems need to be included for clarity in the Approach I draft also. Additionally I wonder if “Washington Tree Farm Program” should be changed to “American Tree Farm System” from a clarity/consistency standpoint? i.e. FSC is also a national/international certification program that is administered in Washington by a local group. I like the intent of these certification choices, in part because it provides another option for folks not in the current use taxation programs, and confirms intent to actually manage their forestland. Again, not sure it rises to the level of priority of one small over another small forestland owner.

“a certification program recognized by DNR”. Inclusion of some of the intent language regarding acceptable certification programs (see Approach 2. E. c.) would be helpful and reassuring to landowners asked to support this change.

Sub Issue: No FP rule violation SFL

- What if violation is in FREP area- can it be appealed

Sounds reasonable, but I don’t see why DNR can’t deal with bad actors with current tools/punishments that presumably are appropriate for the issue – why should FREP eligibility become part of an enforcement tool. Not easy to defend bad actors, but in principle it simply is not appropriate to mix enforcement activities with FREP. Again, perhaps there is more to the problem that I can’t see in the “Problem Addressed” statement?

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Sub Issue: Nonprofit group ownership SFL

- Issue may have been a perception of conservation groups being eligible-wanted clarification

As this program was developed and intended for the benefit of those “small” forest owners who are trying to manage their forest land “for profit” this provision seems to make sense unless I’m missing something? To some extent this may simultaneously at least partially deal with the “non-profits” that some of us object to using/abusing(?) a program intended for active forest managers.

Sub Issue: ownership prior to 3/20/2000 SFL

- Person is a new SFL- purchase of their land makes them not eligible for FREP
- Bias to long term family owners and discourages new stewards (owners)
- Excludes new stewards and model tree farmers
- State programs should be all inclusive not exclusive
- FREP is an encouragement to new owners and hence needs to continue the equal playing field for all owner types
- Need to build a program to ensure stewards are supported not unwanted owners-Flag certain purchasers and purchases

This concept has the potential to discriminate against those new folks trying to purchase tree farms today or in the future. These potentially future tree farmers are of great importance because they will have purchased their trees farms with their own dollars (rather than inherit), an important point in recognizing their 'commitment' to tree farming (not all tree farms can be passed down in a family).

Sub Issue: SFL determination SFL

No comments

Property Eligibility

Sub Issue: SFL

Again I understand the logic and this may be technically correct regarding steep/unstable slopes outside the RMZ's, but this provision is something landowners fought for and received because steep/unstable slope rules (past, present, and future) can have just as disproportionate impact on smalls as RMZ rules. To the extent that there is a cut-off date approved (your I. B. above) the potential abuse from land speculators is resolved. Again, this net to catch a few, is unduly large and a significant impact on those legitimate forest owners without out the ability to average their rule imposed losses if they happened to have (prior to the cutoff) these kind of lands.

Sub Issue: Forest Certification SFL

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- Do not support using certification for eligibility/priority
- Disincentive for landowners
- would like to have certification for future applicants
- make sure all certification organizations are recognize –be inclusive of all forms and meet international standards
- not sure it is right to make landowner get certified for FREP

Sub Issue: **Tax status** **SFL**

- FREP is eligible regardless of tax status-should be open to all
- Question DNR reasoning for this as a deterrent. Limits landowners that must keep same protection
- Tax status excludes some ownerships (ie 15 acre parcels)

Prioritization

Sub Issue: **SFL**

The Highest Priority shall be given to FREP applications that include one or more of the following conditions:” statement still needs a lot of clarification from both a process and landowner understanding standpoint. Some examples of how this “highest priority” would actually work would/could make me more, or less, concerned about the 3 stated priority conditions. Never having filed for a FREP and likely only having one potential opportunity in my lifetime makes this enticing to me personally, but I’m not convinced it’s fair to give one small forest owner priority over another small forest owner that has more land/RMZ’s.

The eligibility for FREP was already established. If these eligibilities are to be re-defined, to prioritize by anything other than “first come, first served” opens a slippery slope to whose land does the DNR, the WDFW or the Revenue Department like best (or dislike most)?

Sub Issue: **No FREP ever** **SFL**

- For funded FREP only
- Can lead to process where landowner put all in at once-drives larger harvest and discourages small impact harvest over time.
- Can put parameters on-% of land in riparian, etc...

Valuation

Sub Issue: **SFL**

- Give landowner one or two options-DOR or Stumpage
- Landowner should get two choices
- Only use at the time of harvest for value date
- Because there are no other options for landowner should have both

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Comment Issue: Comments: Location:

I didn't know them, but I recall a couple sitting towards the front at the Centralia meeting that commented something to the effect that they had sold property elsewhere and used the proceeds to buy replacement timberland. If we don't find a way to consider these family forest owners as XXXX suggests this couple will have extinguished their FREP rights on their old property (assuming it was in Washington State?) and if the replacement forestland was purchased after whatever cut-off date is selected (if we have to have one) they have also lost their rights to FREP on the new forestland.

Additionally, we don't know if the potential for FREP was factored in, or not, on their particular sale of old timberland, plus on the purchase price of their new property(?) – another reason to not fool with the rules retroactively. If we adopt a cut-off date, any of us selling timberland to someone other than family will take another hit in the pocketbook because the buyer won't have the FREP option, and therefore the selling price will be less than the full potential for an owner eligible for FREP – this forces us into “fire sale pricing” and further ensures this land will not stay in the preferred forest use..

I do know of other individuals that purchased relatively small parcels they could afford where they considered the probability of FREP eligibility into the purchase price – so they could at least partially compete with the “highest & best use” of development/recreational property. I don't know whether it was Industrial land or not – and I'm not sure it should matter. In my mind, these folks are doing a service for our environment by keeping this land in active forestry – eligibility for FREP may be a small price to pay for avoiding higher intensity uses.

Seems we need to ask ourselves a couple of questions:

1. If our real concern is speculators buying unharvestable Industrial land and converting that to FREP eligible ownership, perhaps we should just focus on whether the prior land ownership was eligible for FREP (or 20-acre harvest rules) at time of sale (if within ___ years?) to determine whether that new ownership is still eligible, or potentially eligible after some holding period?
2. If a lot of non-productive/un-economical Industrial land were sold to “smalls” overtime (as will likely happen with or without FREP), is that something that's so significant that we really need to “fix” that problem with more complicating rules that always catch unintended victims in the large net?

What about landowners currently on the list? They harvested in good faith. They have made investments in planting, roads, pct, consultants etc. They have followed all the rules with the expectation that FREP would come eventually. They were placed on a list as ELIGIBLE. In the order received as prescribed by law. Is DNR going to revoke this ELIGIBILITY? I understand that the legislature required prioritization for this funding cycle but this was not the understanding of SFLO's when they were placed on the list. Before any refinements or modifications are made to the program it should be made clear that SFLO's currently on the list will be a priority for funding.

Acquisition Process

Sub Issue:

SFL

“acquisition of Riparian areas” should be changed to something like: “a lease on the timber in the eligible areas”.

- Contingent on if funds available-not acceptable
- Trying to fix problems with new negative (prioritization and eligibility criteria)
- Leave “funding available’ off-wchange to “will determine value at the appropriate time”-make the statement positive

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In summary it is my belief that DNR is breaking a negotiated promise to small forest landowners, by adding conditions and restrictions to the FREP program. If DNR feels strongly about thisthen everything including buffer widths and all other aspects of FF should be up for negotiation. The economic impacts should be fully studied as the this represents an additional burden on certain small forest landowners that was not considered. I feel this represents an additional taking of private property value and will result in more conversions of forest land.

It also seems to go against the previous statements of our Land Commissioner and the Legislature who at least previously saw the benefits of retaining and promoting small forest land ownership.

Sub Issue: **General 8/30/2010 meeting** **SFL**

- From WFFA-Already prioritized for small forest landowners-therefore no further prioritization or eligibility reform is needed
- Difficult of getting the Legislature to fully fund is a problem- need to present a uniform front/proposal to the legislature
- To many options presented forward hurt others
- A back log of applicant has existed since day one
- Unified front/proposal is not adequate to secure funding from the Legislature
- SRF board spends billions on salmon recovery-where is the money to put fish back in the stream-protection versus restocking
- Need to think about free open markets and how these are affected by regulatory action of the past.
- o Want to help SFLs capture value by helping build a successful program

Sub Issue: **Risk of Conversion** **SFL**

“Greatest risk of conversion to a use other than forest land”. We are in Forest Tier I., and can only grow trees. No risk of conversion! Yet dozens of acres of our tree farm may be clearcut for BPA’s new 500 kv power line and rendered non-revenue-producing for ever, somewhat like Riparian Zone acres. Will the DNR come to bat for our trees under the power line over the stream, or look the other way while BPA removes the shade and large woody debris that we, as tree farmers, have to keep?
