Small Forest Landowner Buffer Width Dispute

Majority and Minority Recommendations

to the Forest Practices Board

10 August 2022

Contents

1- Background and Timeline

- The Board is requested to make the final determination on this dispute that did not result in a consensus recommendation
- WFFA submitted a proposal initiation request to the Board in February 2015
- The Board directed Policy to develop a plan addressing the proposal and in May 2015 accepted Policy's strategy to address the proposal
- The Board also directed Policy to determine whether the proposal meets the criteria outlined in WAC 222-12-0403 for an alternate plan template
- Policy formed three workgroups to address the proposal

Alternate Plan Template Workgroup

- Policy formed this workgroup in October 2015 to recommend whether the WFFA proposal as a whole or in part meets the criteria of a template
- The workgroup delivered its recommendations to Policy in December 2019
- The Board accepted the Policy recommendation that the "…***proposal, in whole, does not meet the criteria of a template per the rule standard in WAC 222-12-0403(03)***"
- This Policy workgroup had also recommended to form two additional workgroups:

Alternate Harvest Prescription Workgroup

- Policy formed this workgroup in February 2020 to:

  Evaluate the site-specific conditions that are necessary to develop experimental alternative harvest prescriptions for SFL specific to conifer restoration and conifer thinning

- This workgroup delivered two products to Policy: draft alternative harvest prescriptions; and a draft monitoring plan request for CMER.

- Policy delayed final action on these recommendations until the SFL buffer width dispute was completed

SFL Prescription Technical Workgroup

- Policy formed this workgroup in February 2020 to:

  evaluate under what, if any, site-specific conditions a 75 foot and 50 foot buffers, respectively, would be acceptable as a prescription for Type F streams and a 25 foot buffer as a prescription for Type Np streams

- The workgroup could not reach consensus on whether the proposal meets the requirements of a template
- SFLs, subsequently, invoked the dispute resolution process in June 2020

Dispute description

- TFW Policy agreed on the following description of the dispute by July 2020:

The SFL Caucus invokes dispute resolution based upon the lack of progress on the core RMZ width prescriptions of 25, 50, and 75 feet, despite some progress in the workgroups being made. Specifically, this dispute is limited to RMZ widths within WFFA's "Alternate Harvest Prescriptions for SFL in Western Washington, January 21, 2015 proposal.

- Both stages of the dispute were completed by May, 2021

CMER Review of the Science Justification

- SFL requested a delay in preparation of majority/minority recommendations until the Policy request of CMER review of the WFFA scientific justification was complete

- CMER delivered two separate position papers as the final products of the review to Policy

- CMER's review became the subject of a separate Policy dispute that concluded in the informal stage

Counties Caucus Recommendations:

- Recommends that the Board consider approving alternate plan templates that:
  - Provide a 75-foot fixed width managed buffer (50’ core and 25’ managed) on all fish bearing streams; and
  - A 50-foot buffer with the outer 25 feet managed for Np streams
- Their objective is to provide incentives and opportunities to SFLs and to dissuade SFL conversion to other land uses

Counties Caucus Recommendations:

- SFLs should have simplified riparian rules that can be implemented without the need to hire forestry consultants
- 75-foot fixed width buffer provides the functions necessary for a healthy riparian ecosystem. Managed in the outer 25 feet aids in meeting DFC
- 50-foot managed on Np streams encourages understory development; a key component of shade for small streams
- To ensure low impact, these template prescriptions should only be available to SFLs:
  - Less than 2 million bf/year
  - On individual harvest areas of 20 acres and affect no more than 1,320 feed of stream reach

Small and Large Landowners

- Requests the Board approve the following alternate plan templates for SFL only:
  - 75-foot variable for S/F waters that are larger than 15-foot BFW
  - 50’ variable for F waters 5-15 BFW
  - 30’ fixed full length for all Np waters.

- Not accept template buffer width of 25’ fixed for F stream that are less than 5’ BFW
- Direct DNR to add the templates to BM21 as quickly as possible
- Direct Policy to return with their variable width sideboards, additional management recommendations and a potential change to 50’ managed Np template resulting from the Np rulemaking

Small and Large Landowners

- Alternate plan templates are available only to SFL in accordance with RCW and WAC requirements
- Present two scientific analysis along with a review that determines the potential impact on resources
- The analysis compares relatives effectiveness of the proposed buffer widths in the proposal to current forest practices rules for Large Wood Debris function only
- Because LWD is the riparian function that attains near maximum values furthest from the stream
- And that assessment of relative effectiveness relied on the scientific principle included in BM section 21 guidance for alternate plans: cumulative effectiveness of forest retention in various riparian functions

Small and Large Landowners

- Based on these assessments (the original PI science assessment, the independent scientific analysis (Cramer/Teply) and the ISPR review of Cramer/Teply):
  - For the 75 and 50 foot buffers: the difference to relative effectiveness is well within the margin of error and that these buffers are equal in overall effectiveness to rules
  - For the 25’ buffer on F streams: difference in relative effectiveness with current rules suggest this buffer would not be equal in overall effectiveness
  - For the 25’ buffer on Np streams: the studies suggest relative effectiveness is greater than current rules and exceeds the overall effectiveness of the current rule

Synthesis of recommendation for each buffer width | Additional Template Criteria

State, EWTG, WWT, and Conservation

- Recommends that the Board not approve the proposed alternate plan template prescriptions because:
  - They do not provide protection of public resources at least equal to those required in the act or the rules
  - There is no special “deference” or “special regulatory” standard for SFLs. Protections in rules apply to all landowners
  - The science used to support the proposal is inconclusive with deficiencies; and that it doesn’t demonstrate that any of the prescriptions will provide protection for public resources; and that ISPR review comments have highlighted these points.
  - The prescriptions will not meet the DFC of the riparian forests

State, EWTG, WWT, and Conservation

- Recommends that the Board find site specific riparian prescriptions in which SFL can harvest within the RMZ while meeting the protection requirements of the rules:
  - Develop templates and prescriptions specifically designed for SFL to be included in BM 21 that address site specific conditions and facilitating SFL management of RMZs
  - Direct Policy to refine and review alternate harvest prescriptions for conifer restoration and conifer thinning
  - Amend BM Section 21 to improve guidance for SFL to design and implement alternate plans

Next Steps

- The Board is asked to make the final determination on whether there are elements of the proposal that may meet the alternate plan requirements
- Does the Board need additional information to make the final determination on this dispute?
- Board to interact with a Policy panel at the November meeting
- Board to consider whether a special Board meeting on Small Forest Landowner issues and disputes would be helpful or needed