

# Overview of Regulatory Actions Related to Typing “F” Streams

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# Overview

- 1999: FFR Adopted by Legislature
- 2001: FFR Interim Rule
- 2/2005: FPB retains Interim Rule by inaction
- 5/2006: HCP Approved by Services w/Interim Rule
- 2012: Policy begins discussions on a potential new permanent rule
- 2/2014: FPB motion (outline motion)
- TODAY

# 1999 – FFR Adopted by Legislature

*The rule to be adopted by the Forest Practices Board will include a statewide map delineating the waters of the state into three categories: Type S waters, Type F waters and Type N waters. The map is to be developed using a multi-parameter, field-verified GIS logistic regression model pursuant to the adaptive management procedures described in Appendix L. The multi-parameter model will be “habitat driven” and will use geomorphic parameters such as basin size, gradient, elevation and other indicators. Electro-fishing and day or night snorkeling and other non-lethal methods may be used with appropriate state and federal permits to do research and effectiveness monitoring for the purpose of developing and testing a habitat based model or improving the model at five year intervals.*

*Forest and Fish Report B.1(a) 4/29/1999*

# FFR anticipated delay of maps

If statewide water type maps are not available by the time of rule adoption, water typing will proceed under an interim rule modeled after the current emergency rule but modified in the following respects:

- (A) stream types will be described in terms of Types S, F and N waters instead of Types 1, 2, 3, 4 and 5 waters;
- (B) the risks between resource protection and timber harvest as determined by a model with a statistical accuracy of +/- 5% will be revised so that the line demarcating fish and non-fish habitat waters will be drawn so as to be equally likely to be over and under inclusive; **and**
- (C) electro-fishing to prove the presence or absence of fish will no longer affect stream type determination from an operational standpoint.

*Forest and Fish Report B.1(d) 4/29/1999*

# 2001 – FPB efishing discussion and action

- FPB voted to retain the use of electro-fishing surveys as provided within 222-16-031

*“Dick Wallace responded that while looking at FFR the “no electro-shocking” was tied directly to an interim water typing system that would more accurately over or under predict habitat versus fish presence, whereas the emergency rule over predicts fish habitat and the idea of FFR is that in the interim it would come much closer (plus or minus 5 percent). Wallace went on to say that the technical people said with all good intentions they could not come up with this interim approach.”*

– *Forest Practices Board Minutes May 17, 2001*

# 2005 February 2 FPB Meeting

## **Option 3: Hybrid**

The Board would still operate under the interim rule (WAC 222-16-031) but incorporate some options from the permanent rule (WAC 222-16-030). Option 3: Hybrid would allow DNR to update the Water Type Base and Activity Maps, incorporate the new S, F, and N symbology, modify Board Manual Section 13 to search for habitat indicators for western Washington, and perform an evaluation over the next one to two years. (FPB Special Meeting 2/2/2005)

# 2005 February 16 FPB Meeting

*“Gary Graves, DNR, asked the Board to take “no action” on implementing a new water typing system at this time, with the understanding that the DNR will put in place the “hybrid option” as outlined at the February 2 Board workshop.”*

*“McElroy reminded the Board that by taking “no action” they are implying approval for DNR to move forward and implement the “hybrid option” as described at the February 2, 2005, Board workshop. The Board agreed to take “no action”. ”*

*(FPB Regular Meeting 2/16/2005)*

# 2006 – HCP Approved

*“While adaptive management is a prominent element of the FPHCP administrative framework and will result in improved conservation over time, NMFS cannot predict which aspects of the FPHCP may be modified through adaptive management in the future, nor anticipate the manner or degree to which these changes may occur. For those reasons, this Opinion analyzes only the existing prescriptions and requirements of the current Washington Forest Practices Rules and does not rely on Adaptive Management in reach the conclusions contained herein.”*

*FPHCP NMFS Biological Opinion*



# 2013 FPB Directed Adaptive Management on Type F

- Direction consisted of TFW Policy prioritizing the issue.
- TFW Policy attempted to respond, but was unsuccessful in reaching consensus both before and after the dispute resolution process.

# 2014 FPB made more specific direction to TFW Policy

*Carmen Smith moved the Forest Practices Board initiate actions to remedy the Type F water concerns outlined in the majority and minority recommendations of the TFW Policy committee caucuses by obtaining additional information and directing additional work by Policy. These steps are essential for the Board to consider making a final determination of the appropriate approach to take in the development of a permanent water typing rule. She further moved the Board and Policy work plans be amended to reflect the following:*

*1) Policy is directed to complete recommendations for options on a permanent water typing rule, beginning with two tasks to be completed and reported to the Board at the May, 2014 meeting:*

- a) Development of “best practices” recommendations regarding protocol survey electrofishing, including an evaluation of published literature, minimizing potential site-specific impacts, and options for reducing the overall extent of the surveys’ use;*
- b) An evaluation of the process to identify off-channel habitat under the interim water typing rule, including recommended clarifications in field implementation guidance, or rule language. The evaluation must be based, in part, on field review of approved Forest Practices Applications and water type modification forms.*

*Policy may accomplish these tasks through the formation of technical subgroups or other means, as needed, to complete work by the established deadline.*

# 2014 FPB Direction Continued

*2) The Adaptive Management Program Administrator is directed to work with Board staff and others, as needed, to scope and initiate a pilot project to re-run the existing hydrologic model using LiDAR data, including at least two watersheds; one westside and one eastside. The Administrator shall make optimal use of contract resources, persons involved with the original development of the model, and LiDAR analytical frameworks completed and in-development by DNR-State Uplands. The objectives of this effort are to:*

- a) Develop quantitative information about the “footprint” of the interim rule, as applied;*
- b) Compare model-based water type designations to on-the-ground Forest Practices Applications and Water Type Modification Forms;*
- c) Investigate additional model utility, such as detection of off-channel habitat, ability to predict physicals & assess footprint effects from using different physicals (i.e., its ability to provide analytical and/or implementation value to different “options” for approaching the various issues raised in the water typing rule dispute memos);*
- d) Provide information that can inform the Board’s basic administrative 20 choices among “map-as-rule” vs. “guidance map with field adjustments.”*

# Today is a first step

- a) *Development of “best practices” recommendations regarding protocol survey electrofishing, including an evaluation of published literature, minimizing potential site-specific impacts, and options for reducing the overall extent of the surveys’ use;*

*Policy may accomplish these tasks through the formation of technical subgroups or other means, as needed, to complete work by the established deadline.*

Goals for today:

- Baseline understanding of how electrofishing is implemented
- Identification of caucus concerns

Future:

- Evaluation of published literature
- Process to identify best practice recommendations that addresses caucus concerns and Board direction