

DETERMINATION OF NONSIGNIFICANCE

Description of proposal: The action is a Forest Practices rule proposal. The proposed rule:

- Deletes language in WAC 222-16-010 in the definition of "Northern Spotted Owl site center" concerning a moratorium on Northern Spotted Owl decertification. This moratorium sunsetted on December 31, 2008.
- Adds a definition in WAC 222-16-010 of "spotted owl conservation advisory group."
- Adds language to WAC 222-16-080, critical habitats, which specifies the spotted owl conservation advisory group's function, and indicates the advisory group's existence is limited to one year from January 1, 2009 through December 31, 2009.

The rule proposal is intended to potentially benefit Washington's Northern Spotted Owl population. It imposes additional analysis by experts of forest lands surveyed for the presence of Northern Spotted Owls by landowners and reviewed for concurrence by Washington Department of Fish and Wildlife during the year 2009. With this rule proposal, the site may not be decertified (that is, the site center status may not be changed) unless the advisory group reaches consensus that the suitable Northern Spotted Owl habitat surrounding the site center need not be maintained while the Board determines a long-term conservation strategy. The duration of the advisory group's existence is from January 1, 2009 through December 31, 2009.

Proponent: **Washington State Forest Practices Board**

Location of proposal, including street address, if any: **The affected geographic area includes non-federal, non-tribal forest lands within Spotted Owl Special Emphasis Areas (SOSEAs). The SOSEAs are defined and mapped in WAC 222-16-086. SOSEAs are located on both sides of the Cascade crest and on the Olympic Peninsula.**

Lead agency: **Forest Practices Board**

The lead agency has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued under 197-11-340(2); the lead agency will not act on this proposal before November 10, 2009. Comments must be submitted by September 30, 2009.

Responsible official: **Peter Goldmark**

Position/Title: **Commissioner of Public Lands** Phone: (360) 902-1004

Address: **Forest Practices Board
c/o Patricia Anderson, Rules Coordinator
Department of Natural Resources
1111 Washington Street SE
PO Box 47012
Olympia, WA 98504-7000
(360) 902-1400**

Date: Aug 31, 2009

Signature: 

WAC 197-11-960 Environmental checklist

ENVIRONMENTAL CHECKLIST

Purpose of Checklist:

The State Environmental Policy Act (SEPA), Chapter 43.21 RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

A. BACKGROUND

1. Name of proposed project, if applicable:

Proposed rule making: Northern Spotted Owl habitat conservation in Washington State forest practices

2. Name of applicant: **Forest Practices Board**

3. Address and phone number of applicant and contact person:

**Forest Practices Board
c/o Patricia Anderson, Rules Coordinator
Department of Natural Resources
1111 Washington Street SE
PO Box 47012
Olympia, WA 98504-7012
(360) 902-1413**

4. Date checklist prepared: **August 2009**

5. Agency requesting checklist: **Forest Practices Board**

6. Proposed timing or schedule (including phasing, if applicable):

The Forest Practices Board will consider permanent rule adoption at its November 10, 2009 meeting. If the Board adopts the rule at that meeting, it would be effective in December 2009. However, the language contained in this rule proposal is already in effect as an emergency rule. The Board adopted the emergency rule on December 16, 2008 with the intention to adopt the same language as a permanent rule.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

Yes, further activity related to this proposal is expected. The Forest Practices Board established a Policy Working Group on Northern Spotted Owl Conservation on December 16, 2008. According to the group's charter, "This group's purpose is to recommend measures that will result in strategic contributions from non-federal lands in Washington to the broader goal of conservation of a viable population of the Northern Spotted Owl." The Board expects recommendations from this group late in 2009. The recommendations may result in changes to Title 222 WAC concerning conservation of this species' habitat on non-federal lands.

In the meantime, the Board is proposing rules as an interim measure to assure that no habitat important to the Northern Spotted Owl is altered through forest practices while the Board determines a long-term strategy for spotted owl habitat conservation. See A.11. and B.5.d for a description and the intended effects of the rule proposal.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

There is no environmental information that has been prepared directly related to this rule proposal. However, the Policy Working Group on Northern Spotted Owl Conservation (described in item A.7.) is considering guidance in the federal 2008 Final Recovery Plan for the Northern Spotted Owl. This federal plan may be seen at <http://www.fws.gov/pacific/ecoservices/endangered/recovery/NSORecoveryPlanning.htm>.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

This is not a site-specific proposal. The proposed action is rule making, and is therefore a "non-project" proposal as defined in WAC 197-11-774. This question is not pertinent to a non-project proposal.

10. List any government approvals or permits that will be needed for your proposal, if known.

None.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agency may modify this form to include additional specific information on project description.)

This rule proposal:

- **Deletes language in WAC 222-16-010 in the definition of “Northern Spotted Owl site center” concerning a moratorium on Northern Spotted Owl decertification. This moratorium sunsetted on December 31, 2008.**
- **Adds a definition in WAC 222-16-010 of “spotted owl conservation advisory group.”**
- **Adds language to WAC 222-16-080, critical habitats, which specifies the spotted owl conservation advisory group’s function, and indicates the advisory group’s existence is limited to one year from January 1, 2009 through December 31, 2009.**

12. Location of proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographical map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any applications related to this checklist.

The proposed action is a rule proposal for statewide application, not a site-specific proposal. As such, it is “nonproject” action, as defined in WAC 197-11-774. The affected geographic area includes non-federal, non-tribal forest lands within Spotted Owl Special Emphasis Areas (SOSEAs). The SOSEAs are defined and mapped in WAC 222-16-086. SOSEAs are located on both sides of the Cascade crest and on the Olympic Peninsula.

B. ENVIRONMENTAL ELEMENTS

1. Earth

- a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountains, other.

The proposal is not site-specific; it is applicable to sites of varying topography.

- b. What is the steepest slope on the site (approximate percent slope)?

The proposal is applicable to sites of varying topography.

- c. What general types of soils (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

Not applicable. This is not a site-specific proposal.

- d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

Not applicable. This is not a site-specific proposal.

- e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.

Not applicable. This is not a site-specific proposal.

- f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

Not applicable. This is not a site-specific proposal.

- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

Not applicable. This is not a site-specific proposal.

- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

Not applicable. This is not a site-specific proposal.

2. Air

- a. What types of emissions to the air would result from this proposal (i.e. dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

Not applicable. This is not a site-specific proposal.

- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

Not applicable. This is not a site-specific proposal.

- c. Proposed measures to reduce or control emissions or other impacts to air, if any:

Not applicable. This is not a site-specific proposal.

3. Water

- a. Surface:

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

This is not a site-specific proposal. The forest practices rules (Title 222 WAC) have provisions that address the impacts to water by forest practices. This proposal does not influence those provisions.

- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

This is not a site-specific proposal. The forest practices rules (Title 222 WAC) have provisions that address water quality. This proposal does not influence those provisions.

- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of the fill material.

This is not a site-specific proposal. The forest practices rules (Title 222 WAC) have provisions that address fill and dredge. This proposal does not influence those provisions.

- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

This is not a site-specific proposal. Potentially, forest practices may require surface water withdrawals or diversions as a result of road construction and maintenance activities. The forest practices rules (Title 222 WAC) are designed to protect water quality and riparian habitat if a forest practices application includes water crossing or if road construction is proposed near a water body. This proposal does not impact those provisions.

- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

This is not a site-specific proposal and does not change the forest practices rules (Title 222 WAC) that govern activities within flood plains.

- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

The forest practices rules (Title 222 WAC) include requirements that prevent sedimentation to surface waters. This proposal does not impact those provisions.

b. Ground:

- 1) Will groundwater be withdrawn, or will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

Not applicable. This is not a site-specific proposal.

- 2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals . . . ; agricultural; etc.). Describe the general size of the system, the number such systems, the number of houses to be served (if applicable), or the number animals or humans the system(s) are expected to serve.

Not applicable. This is not a site-specific proposal.

c. Water Runoff (including storm water):

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Not applicable. This is not a site-specific proposal.

- 2) Could waste material enter ground or surface waters? If so, generally describe.

Not applicable. This is not a site-specific proposal.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

Not applicable. This is not a site-specific proposal.

4. Plants

a. Check or circle types of vegetation found on the site:

- deciduous tree: alder, maple, aspen, other
- evergreen tree: fir, cedar, pine, other
- shrubs
- grass
- pasture
- crop or grain
- wet soil plants: cattail, buttercup, bulrush, skunk cabbage, other
- water plants: water lily, eelgrass, milfoil, other
- other types of vegetation

Not applicable to this rule proposal affecting Northern Spotted Owl habitat conservation. However, in general, spotted owl habitat includes older evergreen forests with evergreen trees such as Douglas fir, Western hemlock, Sitka spruce, Western red cedar, Pacific silver fir, Grand fir, and Ponderosa pine in Washington State.

- b. What kind and amount of vegetation will be removed or altered?

No vegetation will be removed or altered as a result of this rule proposal.

- c. List threatened or endangered species known to be on or near the site.

The proposed action is a rule for statewide application, not a site-specific proposal. However, the proposal addresses habitat conservation for the Northern Spotted Owl, a species designated as “threatened” under the federal Endangered Species Act and “endangered” by rule of the Washington Fish and Wildlife Commission.

- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

Not applicable. This is not a site-specific proposal.

5. Animals

- a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:

birds: hawk, heron, eagle, songbirds, other:

mammals: deer, bear, elk, beaver, other:

fish: bass, salmon, trout, herring, shellfish, other:

Not applicable. This is not a site-specific proposal.

- b. List any threatened or endangered species known to be on or near the site.

Not applicable. This is not a site-specific proposal.

- c. Is the site part of a migration route? If so, explain.

Not applicable. This is not a site-specific proposal.

- d. Proposed measures to preserve or enhance wildlife, if any:

The proposed rule is intended to potentially benefit Washington’s Northern Spotted Owl population. It adds an analysis by a three-person, multi-stakeholder “spotted owl advisory group” to the process in place for landowners to request a change in spotted owl site center status. Owners of forest land within Spotted Owl Special Emphasis Areas (SOSEAs), as defined and mapped in WAC 222-16-086, may conduct surveys to determine presence or absence of spotted owls in conformance with a federal Northern Spotted Owl survey protocol. If such a survey indicates the absence of spotted owls, the landowner may submit the results to the Washington Department of Fish and Wildlife (WDFW), who in turn reviews the survey and makes a determination as to any appropriate change to spotted owl site center status.

Under the proposed rule, after the WDFW determination and before any site center status change, the advisory group conducts an analysis of the forest lands surveyed. This group determines whether or not it is advisable to change the site center status while the Forest Practices Board completes its evaluation of rules affecting the spotted owl. If the advisory group cannot reach consensus that the site center does not need to be maintained while the Board is considering rules for spotted owl conservation, then the status of the site center will not be changed for at least as long as the Board is determining a longer term conservation strategy. The proposed rule specifies that the advisory group will exist for the period from January 1, 2009 through December 31, 2009.

6. Energy and Natural Resources

- a. What kinds of energy (electrical, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

Not applicable. This is not a site-specific proposal.

- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

Not applicable. This is not a site-specific proposal.

- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

Not applicable. This is not a site-specific proposal.

7. Environmental Health

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? If so, describe.

Not applicable. This is not a site-specific proposal.

- 1) Describe any emergency services that might be required.

Not applicable. This is not a site-specific proposal.

- 2) Propose measures to reduce or control environmental health hazards, if any:

Not applicable. This is not a site-specific proposal.

- b. Noise

- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Not applicable. This is not a site-specific proposal.

- 2) What types and levels of noise would be created by or associated with the project on a short-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

Not applicable. This is not a site-specific proposal.

- 3) Proposed measures to reduce or control noise impacts, if any:

Not applicable. This is not a site-specific proposal.

8. Land and Shoreline Use

- a. What is the current use of the site and adjacent properties?

Not applicable. This is not a site-specific proposal.

- b. Has the site been used for agriculture? If so, describe.

Not applicable. This is not a site-specific proposal.

- c. Describe any structures on the site.

Not applicable. This is not a site-specific proposal.

- d. Will any structures be demolished? If so, what?

Not applicable. This is not a site-specific proposal.

- e. What is the current zoning classification of the site?

Not applicable. This is not a site-specific proposal.

- f. What is the current comprehensive plan designation of the site?

Not applicable. This is not a site-specific proposal.

- g. If applicable, what is the current shoreline master program designation of the site?

Not applicable. This is not a site-specific proposal.

- h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

The forest practices rules (Title 222 WAC) include provisions that address activities that may affect environmentally sensitive areas, e.g., wetlands, fish and non-fish streams

and water bodies, steep slopes and unstable soils. This “non-project” action does not impact those provisions.

- i. Approximately how many people would reside or work in the completed project?

Not applicable. This is not a site-specific proposal.

- j. Approximately how many people would the completed project displace?

Not applicable. This is not a site-specific proposal.

- k. Proposed measures to avoid or reduce displacement impacts, if any:

Not applicable. This is not a site-specific proposal.

- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

Not applicable. This is not a site-specific proposal.

9. Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle or low-income housing.

Not applicable.

- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

Not applicable.

- c. Proposed measures to reduce or control housing impacts, if any:

Not applicable.

10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

Not applicable. This is not a site-specific proposal.

- b. What views in the immediate vicinity would be altered or obstructed?

Not applicable. This is not a site-specific proposal.

- c. Proposed measures to reduce or control aesthetic impacts, if any:

Not applicable. This is not a site-specific proposal.

11. Light and Glare

- a. What kind of light or glare will the proposal produce? What time of day would it mainly occur?

Not applicable.

- b. Could light or glare from the finished project be a safety hazard or interfere with views?

Not applicable.

- c. What existing off-site sources of light or glare may affect your proposal?

Not applicable.

- d. Proposed measures to reduce or control light and glare impacts, if any:

Not applicable.

12. Recreation

- a. What designated and informal recreation opportunities are in the immediate vicinity?

Not applicable. This is not a site-specific proposal.

- b. Would the proposed project displace any existing recreational uses? If so, describe.

Not applicable. This is not a site-specific proposal.

- c. Proposed measures to reduce or control impacts on recreation, including recreational opportunities to be provided by the project or applicant, if any:

Not applicable. This is not a site-specific proposal.

13. Historic and Cultural Preservation

- a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

The proposal generally applies to a wide range of sites and does not modify any requirements related to cultural resources.

- b. Generally describe any landmarks or evidence of historic, archeological, scientific, or cultural importance known to be on or next to the site? If so, generally describe.

Not applicable. This is not a site-specific proposal.

- c. Proposed measures to reduce or control impacts, if any:

The proposal does not modify any requirements related to cultural resources.

14. Transportation

- a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans if any.

Not applicable. This is not a site-specific proposal.

- b. Is the site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

Not applicable. This is not a site-specific proposal.

- c. How many parking spaces would the completed project have? How many would the project eliminate?

Not applicable. This is not a site-specific proposal.

- d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

Not applicable. This is not a site-specific proposal.

- e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

Not applicable.

- f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

Not applicable.

- g. Proposed measures to reduce or control transportation impacts, if any:

Not applicable.

15. Public Services

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

Not applicable.

- b. Proposed measures to reduce or control direct impacts on public services, if any.

Not applicable.

16. Utilities

- a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

Not applicable. This is not a site-specific proposal.

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

Not applicable. This is not a site-specific proposal.

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: Gutchen Robinson

Signature: [Handwritten Signature]

Title: Natural Resource Specialist

Title: Forest Practices Assistant Division Manager

Date: 8-24-09

Date: 8-24-09

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

(Do not use this sheet for project action)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment. When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water, emissions to air, production, storage, or release of toxic or hazardous substances, or production of noise?

The proposal would not affect these conditions.

Proposed measures to avoid or reduce such increases are:

Does not apply.

2. How would the proposal be likely to affect plants, animals, fish or marine life?

The intention of this rule proposal is to potentially have a positive effect on the Northern Spotted Owl.

- Proposed measures to protect or conserve plants, animals, fish, or marine life are:

As explained in item B.5.d. of the Environmental Checklist, the proposed rule is intended to potentially benefit Washington's Northern Spotted Owl population. It imposes additional analysis by experts of forest lands surveyed for the presence of Northern Spotted Owls by landowners and reviewed for concurrence by WDFW during the year 2009. With this rule proposal, the spotted owl site center may not be decertified (that is, the site center status may not be changed) unless the advisory group reaches consensus that the suitable Northern Spotted Owl habitat surrounding the site center need not be maintained while the Board determines a long-term conservation strategy. The duration of the advisory group's existence is from January 1, 2009 through December 31, 2009.

3. How would the proposal be likely to deplete energy or natural resources?

The proposal would have no effect on an energy resource.

Proposed measures to protect or conserve energy and natural resources are:

See item 2.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas

designed (or eligible or under study) for governmental protection: such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands? Proposed measures to protect such resources or to avoid or reduce impacts are:

The rule proposal may have an effect on the Northern Spotted Owl, a species designated “endangered” by the Washington Department of Fish and Wildlife and “threatened” by the US Fish and Wildlife Service. The intended effect of the proposed rule amendments to WACs 222-16-010 and 222-16-080 is to assure that no habitat important to the Northern Spotted Owl is altered through forest practices while the Forest Practices Board determines a long-term strategy for spotted owl habitat conservation.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?
Proposed measures to avoid or reduce shoreline and land use impacts are:

This rule proposal would not affect shoreline use or land use. However, it could have an effect on regulatory requirements for conducting forest practices on forest land within Spotted Owl Special Emphasis Areas (SOSEAs). (The SOSEAs are defined and mapped in WAC 222-16-086.) As previously explained, the proposed rule creates a “spotted owl conservation advisory group” to evaluate any spotted owl site center on which surveys show the absence of spotted owls. See B.5.d. for more explanation.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?
Proposed measures to reduce or respond to such demand(s) are:

There is no likelihood that this rule proposal would affect transportation or public services and utilities.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

The proposal does not conflict with state or federal laws that provide for protection measures related to Northern Spotted Owl habitat or any other local, state, or federal laws.