



**Timber, Fish and Wildlife Policy Committee
Forest Practices Board**

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Policy Co-Chairs:

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July 23, 2020

TO: Washington Forest Practices Board

FROM: Terra Rentz and Marc Engel

SUBJECT: TFW Policy's Recommendation on the Small Forest Landowner Western Washington Low Impact Template

RECOMMENDATION

At the February 2020 Board meeting TFW Policy (hereafter: Policy) provided the following recommendation to the Forest Practices Board (hereafter: Board) for consideration in our quarterly Committee report, which has been taken up by the Board at the August 2020 Board meeting.

Recommend to the Forest Practices Board that the Small Forest Landowner (SFL) Alternate Prescription (AP) Template proposal does not meet the criteria of a template per the rule standards in WAC 222-12-0403(3) in whole, but may in part be a template or other form of prescription with more site specific criteria. *(All caucuses thumbs up; Eastside tribes and Federal caucus absent)*

This consensus recommendation was made by Policy at the December 5, 2019 Policy meeting.

The recommendation is driven by the discussion and conclusions of Policy that the SFL AP Template proposal, as a whole, does not meet the site specific characteristics required of an alternate plan template and does not address common situations which are repeatedly addressed in alternate plans or strategies as required under WAC 222-12-0403. Additionally, without the level of site-specificity necessary for a template the strategies articulated within the proposal cannot be evaluated for their relative effect on the resources to ensure the alternate plan would provide protection to the public resource at least equal in overall effectiveness by alternate means (RCW 76.09.370).

Accompanying this recommendation were two motions for the creation of affiliated workgroups to explore the concluding clause: "...but may in part be a template or other form of prescriptions with more site-specific criteria."

1. **SFL Experimental Alternate Harvest Prescriptions WG:** *Form a technical workgroup including the State caucuses and other interested parties to continue work on the experimental conifer restoration and conifer thinning alternate harvest prescriptions, including consideration of a monitoring and evaluation component that would later be developed by CMER. This workgroup shall provide a recommendation to Policy by May 2020. (Conservation and Industry caucuses sideways; Eastside tribal and Federal caucuses absent; all other caucuses thumbs up)*

2. **Technical SFL Prescriptions WG:** *Form a small technical workgroup to evaluate under what, if any, site-specific conditions a 75-foot and 50-foot buffer, respectively, would be acceptable as a prescription for Type F streams; and under what, if any, site-specific conditions a 25-foot buffer would be acceptable as a prescription for Type Np streams. The workgroup shall provide a recommendation to Policy by May 2020. (Westside tribes, WDFW/Ecology, and DNR caucuses voted sideways; Counties, Conservation, SFL, and Industry caucuses voted thumbs up; Eastside Tribes and Federal caucuses absent)*

Charters for these workgroups, and the original AP Template Workgroup, are available upon request.

BACKGROUND

On January 21, 2015 the Washington Farm Forestry Association (WFFA) submitted a Proposal Initiation (PI) to the Forest Practices Board to be heard and reviewed at the February 2015 Board meeting entitled: *Alternate Harvest Prescriptions for Small Forest Landowners in Western Washington* (hereafter: SFL AP template proposal). Specifically, this proposal and accompanying science report proposed the incorporation of a suite of prescriptions into an alternate plan template for use by small forest landowners. Per the adaptive management process for proposal initiation, the Board transmitted the SFL AP template PI to Policy for consideration. In turn, Policy provided a recommendation at the May 8, 2015 Board Meeting for the formation of a subcommittee (hereafter: *AP Template Workgroup*) to implement a three-step strategy following guidance in WAC 222-12-0403 and Board Manual Section 22:

Step 1: Perform a review to determine whether the proposed SFL AP template meets the criterial outlined standards in WAC 222-12-0402 for an “alternate plan template.”

Step 2: Perform a literature synthesis conducted through the Adaptive Management Program (CMER) to evaluate past and current literature generated since the Board adoption of the FFR rules including meeting the five forest practices riparian functions within the riparian management zone (RMZ). This review would provide important context for the evaluation of the prescriptions in the proposed SFL AP template and further template proposals.

Step 3: Provide a written response with consensus recommendations to the Forest Practices Board for their May 2019 meeting which:

- Succinctly describes the results of both the literature synthesis and policy evaluation of the proposed SFL AP template prescriptions following the Board adopted FFR rule for the development of alternate plan templates found in WAC 222-12-0403;
- Confirms the proposed SFL AP template prescriptions meet the resource objectives and protect public resources per WAC 222-12-0403(2);
- Determines if the proposed prescriptions meet the criteria as alternate plan temple prescriptions designed to meet resource objectives to address common situations which are repeatedly addressed in alternate plans or strategies to simplify the development of future plans or strategies, including addressing low impact situations and addressing site-specific features per WAC 222-12-0403(3).

In addition to the steps, the *AP Template Workgroup* was tasked by the Board to consider different strategies for moving forward with the proposed alternate plan template prescriptions in addition to the review of the proposed SFL AP template in its entirety. The strategies could include identifying site-specific situations in which certain prescriptions could be grouped into alternate plan templates, for example a conifer restoration AP template or a conifer thinning AP template.

The Board accepted the recommendations and passed the following **motion** (May 12, 2015):

Beginning no later than October 2015, determine whether the alternate plan template proposal meets the criteria outlined in 222-12-0403 and consider different strategies for moving forward.

CHRONOLOGY OF KEY ACTIONS & EVENTS

Since passage of the Board’s Motion, the following chronology of key actions and events has occurred that resulted in Policy’s recommendation:

DATE	ACTION/EVENT
July 2015	The <i>AP Template Workgroup</i> convened to address and answer the Board’s charge
March 14, 2016	Workgroup completed a Policy Track evaluation of template criteria based on comparison of template prescriptions to rule requirements to determine if prescriptions provide protection to public resources at least equal in overall effectiveness to the required rule protections by alternate means. The evaluation was not voted on by the Workgroup, it was intended to help sort prescriptions into categories of potential template eligibility. This process tried to identify which prescriptions were more/less acceptable in a potential template, in part as preparation for intended further collaboration and science review.
2016	Workgroup researched and discussed (credit to Mark Hicks) pertinent RCW/WACs, noting sometimes conflicting, confusing, vague requirements Policy and the Board will have to interpret.
2017	Workgroup reached consensus on deliverables for contractor review of the submitted PI science justification supporting the prescriptions in the proposed SFL AP template. Workgroup reviewed all available FPAs containing SFL alternate plans in western Washington to develop a database of prior approved alternate plan prescriptions to inform criteria for the eligibility of the proposed SFL AP template prescriptions.
2018	Workgroup reviewed a variety of alternate plan template prescriptions from existing Board approved alternate plan templates (see Board Manual 21), along with alternate plan template prescriptions developed for draft templates which were not approved by the Board to supplement and strengthen proposed prescriptions the SFL AP Template. Workgroup reached consensus on preliminary questions for ISPR review of how well the contractor during the science review met the deliverables.
Sept 4, 2018	The <i>AP temple Workgroup</i> called on vote and discussed potential actions for Policy considerations and approval for next steps. The vote was for the proposed SFL AP

	template on the question <i>Do these template prescriptions, as a whole, meet resource objectives to address common situations that are repeatedly addressed in alternate plans?</i> (No-4, Yes-1, Sideways-2).
Sept 6, 2018	SFL Caucus appealed to Policy to continue discussion on the proposed SFL AP template as individual parts to determine if consensus could be achieved on any element within the original SFL AP template proposal. Policy asked the workgroup to: (a) develop and gain Policy approval of a Charter to ensure timely and directed completion of Workgroup deliverables, and (b) break down the proposed SFL AP template prescriptions into parts to assess individual prescription applicability as originally requested by the Board.
Oct. 4, 2018	Policy approved, through consensus, to accept the Alternate Plan Template Workgroup Charter which was subsequently applied to the workgroup’s operations. A deadline for final recommendations of March 28, 2019 was set.
March 7, 2019	The Workgroup reported that, at the time of their February 22, 2019 meeting, there was no consensus that the proposed SFL AP template, as a whole or in part, qualifies as a template. Further, the Workgroup requested an extension of the Workgroup charter and completion deadline to October 2019 (approved by Policy).
Oct. 31, 2019	The Workgroup delivered the following recommendations to Policy: <ol style="list-style-type: none"> 1. The SFL AP template proposal, in whole or in part, does not meet the criteria of a template per the rule standards in WAC 222-12-0403 (<i>majority recommendation; SFL caucus as decent</i>); 2. The State Caucus and other interested parties continue to work on the experimental conifer restoration and conifer thinning alternate harvest prescriptions and develop finished recommendations for Policy by May 2020 (<i>consensus recommendation</i>); 3. Policy sanction a work group to evaluate if or under what site-specific conditions a 75-foot and 50-foot buffer, respectively, would be acceptable as an AP template prescription(s) for Type F streams and, if or under what site-specific conditions a 25-foot buffer would be acceptable as an AP template prescription(s) for Type Np streams. The work group should preform the evaluation and develop prescription recommendations for Policy by May 2020 (<i>consensus recommendation</i>).
Dec. 5, 2019	Through consensus Policy developed the current Board recommendation and approved the formation of two workgroups – the SFL Experimental Alternate Harvest Prescriptions WG and the Technical SFL Prescriptions WG as previously described.

PROCESS CHALLENGES

The Adaptive Management Program clearly articulates that those proposals that either require science or are the evaluation of science should be directed down the “science path” for CMER consideration and work. The “policy path” exists for those items that are truly a policy decision that do not overlap with the roles and responsibilities of CMER. To a certain extent, the evaluation of the SFL AP template proposal was appropriately assigned to a Policy path as it is a policy evaluation to look at requirements in WAC and Board

Manual and to determine, from a technical standpoint, if the SFL AP template proposal met the necessary characteristics of a template. Concurrently, though, the associated science delivered in support of the SFL AP template proposal (also referred to as the Martin Report) should have been appropriately directed to CMER for review as completed outside science *and* the riparian literature synthesis should have been directed to CMER for integration into the workplan – **these two actions did not occur.**

At the December 2019 Policy meeting, Policy spent a substantial amount of time reviewing the record of actions associated with the SFL Template to identify where and when the process took an alternative pathway that did not follow the standard Adaptive Management Program process. In that assessment it became clear that both the Board and Policy directed the AMPA on multiple occasions to facilitate, through CMER, the completion of a Riparian Literature Synthesis. That synthesis was purported, through multiple updates, to be the focus of the Cramer Fish Sciences review (the so-called Teply report) when, in fact, a different review was occurring that simply focused on an assessment of the report provided by the SFL caucus and, per the direction of the then-AMPA, did not provide the normal practices of consensus endorsement and review by caucuses. Further, it was identified that although a funded line item in previous Master Project Schedules, the Riparian Literature Synthesis was dropped, without direction from Policy or CMER (although Policy was aware of the AMPA's actions) and replaced with funding for the Cramer Fish Sciences review. Policy noted that integrating a riparian literature synthesis is necessary to adequately evaluate proposed changes put forth by the SFL caucus and felt it important to clearly readdress the need with the following motion:

Fund a specific line item for the Riparian Literature Synthesis (RLS), move it to the implementation phase in the MPS, and request CMER complete the RLS. Recommend that CMER work with the AMPA to complete any necessary contracting for the completion of the RLS as soon as possible. (Industry caucus sideways thumb; All other caucuses voted thumbs up; Eastside tribal and Federal caucuses absent).

Status: While the RLS, or at least an aggregation of relevant riparian literature, is still a priority for Policy, recent budget issues have led to the removal of this item from the current Master Project Schedule. At this time, there are no available funds to pursue an RLS or equivalent science product in the next few biennia.

STATUS UPDATE: AFFILIATED WORK

Workgroups

Charters for both the *Technical SFL Prescriptions Workgroup* and the *SFL Experimental Alternate Harvest Prescriptions Workgroup* were approved at the February 7, 2020 Policy meeting. At that time, it was determined that workload management was necessary due to competing priorities within the Forest Practices environment and workgroup deadlines were adjusted for sequencing. At the request of the SFL Caucus, the *Technical SFL Prescriptions Workgroup* concluded first (May 28, 2020), to be followed by the *SFL Experimental Alternate Harvest Prescriptions Workgroup* (September 24, 2020). *Technical SFL Prescriptions Workgroup* met several times throughout February to May and the *SFL Experimental Alternate Harvest Prescriptions Workgroup* has met twice since May.

A report was delivered by the *Technical SFL Prescriptions Workgroup* at the June 4, 2020 Policy meeting without a clear recommendation. While the workgroup acknowledged that recommendations regarding Type

Np streams should be tabled to support the work of the *Type Np Technical Workgroup*, the Workgroup was unable to come to consensus recommendations on site-specific conditions or prescriptions for 75-foot or 50-foot RMZ's for Type F waters. Workgroup members also agreed that conditions exist in which even-aged management, conifer restoration, and commercial thinning prescriptions can meet the effectiveness of the Rules. However, it was not possible in the allotted time to agree to site-specific conditions which exist throughout all western Washington for all three management options.

Science Review

It was acknowledged by Policy on multiple occasions that a serious misstep was made with regards to the review and assessment of the SFL AP template proposal affiliated science (the Martin Report). At the July 2020 Policy meeting, a consensus decision was made to direct this research to CMER accompanied by the Cramer Fish Sciences review and associated ISPR comments as supporting documentation. Specifically, Policy moved the following:

Transmit the SFL Template Proposal Initiation Scientific Justification, the Cramer Fish Sciences review, and the ISPR documentation as supporting materials to CMER for the purpose of responding to the 6 questions for completed outside science. CMER shall return the answers to the 6 questions as soon as possible, within 90 days after receiving draft answers to the 6 questions from the author. If additional time is needed, CMER shall make that justification to Policy at least 30 days prior to the original deadline. (All Caucuses thumbs up, Conservation, Eastside Tribes, and Federal Caucus absent)

Dispute Resolution

On June 4, 2020, at the conclusion to the *Technical SFL Prescriptions Workgroup* report, the Small Forest Landowner Caucus invoked their right to Dispute Resolution citing a lack of progress on resolving consensus recommendations regarding the 75-, 50-, and 25-foot RMZ buffer prescriptions. Specifically, that ordinary discussion and debate of an issue has been exhausted without satisfactory resolution.

While numerous concerns were raised by the SFL Caucus during this time in the form of new motions to Policy with a desire of invoking dispute resolution, all issues were deemed outside the scope and purview of Policy or out of practical sequence with Policy operations and procedures. Inevitably, the following framing for dispute resolution was proposed:

The SFL caucus invokes dispute resolution based upon the inability to make substantive progress at TFW Policy on WFFA's "Alternate Plan Template Proposal, January 21, 2015" proposal initiation, primarily due to disagreement on acceptable RMZ widths, evidenced by the Technical SFL Prescriptions Workgroup's failure to reach consensus RMZ prescription recommendations.

At the time of proposal, caucuses did not agree that the dispute was clearly and appropriately framed and requested that the Policy chair and AMPA work with the SFL caucus to clarify the framing of their dispute. Revised language was brought back to Policy at the July 14, 2020 meeting as follows:

The SFL Caucus invokes dispute resolution based upon the inability to make substantive progress at TFW Policy on WFFA's "Alternate Harvest Prescriptions for SFL in Western Washington, January 21, 2015) proposal. Despite some progress made in workgroups, the inability of the Technical SFL

Prescriptions Workgroup to bring recommendations to Policy made it clear a formal dispute resolution process is now appropriate on the core RMZ width prescriptions. Specifically, this dispute is limited to RMZ widths.

During discussion, caucuses continued to assert that the framing of the dispute was not completely clear and that, as worded, the language left the door open for the SFL AP Template proposal as a whole to be brought into the dispute, therefore running in conflict with the consensus recommendation now in front of the Board. After much discussion, the final dispute resolution was re-worded and accepted by all caucuses (DNR sideways; Conservation, Eastside Tribes, and Federal Caucus absent) as follows:

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.

With the acceptance of the framing of the dispute, the 60-day Stage 1 clock was initiated (concluding Friday, September 10, 2020). All caucuses expressed interest in participating in Stage 1 Dispute Resolution, which will be coordinated by Policy co-chairs. The first official meeting will occur on August 6, 2020 with the goal of 4-6 half-day meetings held using remote technology. Each caucus is allowed 1 representative at the DR table and up to 2 additional members (either policy or technical) in the audience as support. All attendees must remain consistent throughout the process.