MEMORANDUM

TO: Forest Practices Board

FROM: Gretchen Robinson, Natural Resource Specialist

DATE: April 19, 2011

SUBJECT: Forest Biomass Rule Making – Action Requested

On May 10, I will request the Board's adoption of the forest biomass rule. The rule amends the definition of "forest practice" in WAC 222-16-010 by inserting "or forest biomass" into the lead-in sentence of that definition. The purpose is to make it clear that forest biomass harvest is subject to the same resource protection measures as timber harvest in the forest practices rules.

On February 8, 2011, the Board directed staff to file a CR-102 *Proposed Rule Making* notice to initiate rule making. The Board held hearings in Ellensburg, Olympia, and Sedro Woolley on March 24, 30, and 31, to hear comments on the Board's forest biomass, watershed analysis, and Riparian Open Space Program proposed rule language. The comment period ended April 1.

The Board received eight comments on the forest biomass rule making altogether. Six were in support of the rule making and two were comments specific to the SEPA environmental checklist. All of the written comments are enclosed and a summary is included in the enclosed draft Concise Explanatory Statement.

The comments specific to the SEPA environmental checklist are from Mr. Roger Scott and from the Department of Ecology Southwest Regional Office. Mr. Scott indicated that slope, soils, and replanting have bearing on applications for biomass removal. The Department of Ecology stated, "Biomass should not be extracted from wetland areas as these depend on biomass for function and habitat."

In response, while the proposed rule does not specify best management practices particular to biomass removal, the activity has been, and will continue to be subject to all of the environmental protections built into forest practices rules. The rules are designed to protect soils, riparian areas, wetlands and other environmentally sensitive areas in forest lands. Bank stability is regulated through riparian leave tree requirements and equipment limitation zones. Soil compaction and productivity is addressed through equipment limitation zones, the appropriate use of logging systems to achieve resource protection, prescriptions for the protection of sensitive sites, and reforestation requirements.

For your information, the Department of Natural Resources (DNR) is planning to add a question and data entry field particular to biomass harvest to the Forest Practices Application/Notification forms, including both two-year and Small Forest Landowner Long-Term Application forms. This will allow DNR and stakeholders to review the applications and operations for any public resource protection issues associated with forest biomass harvest activity under any forest practices application.

Enclosed for your consideration are the rule proposal and a draft CES, the six written comments the Board received for this rule making, and for your convenience, the economic analysis which you received prior to the February 8 meeting.

I look forward to seeing you at the May 10 meeting.

GR/
Enclosures: Proposed rule language
Economic Analysis
Draft Concise Explanatory Statement
Written comments (6)

FOREST PRACTICES BOARD
May 2011
Forest Biomass Rule Proposal

WAC 222-16-010 Definitions

. . .

"Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber or forest biomass, including but not limited to:

Road and trail construction;
Harvesting, final and intermediate;
Precommercial thinning;
Reforestation;
Fertilization;
Prevention and suppression of diseases and insects;
Salvage of trees; and
Brush control.

""Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

. . .

ECONOMIC ANALYSIS
Forest Practices Board
Rule Making Affecting Forest Biomass Harvest

By Craig Calhoon, Economist
Department of Natural Resources
May 2011

OBJECTIVES

The Forest Practices Board is considering a rule change to make clear and reinforce that harvest of forest biomass is considered to be a forest practice under the Washington forest practices statute, chapter 76.09 RCW, and the forest practices rules in Title 222 WAC.

The Forest Practices Board and the Department of Natural Resources already consider that forest biomass harvest is a forest practice that falls under the authority of the state's forest practices law and regulation. The proposed rule change will ensure that other affected parties will have the same understanding.

The proposed rule change explicitly clarifies that forest biomass harvests are forest practices. It implements RCW 76.09.040 which states, "Where necessary to accomplish the purposes and policies stated in RCW 76.09.010 . . . the board shall adopt forest practices rules … that … establish minimum standards for forest practices." Among the purposes and policies stated in Chapter 76.09 RCW is "… that it is in the public interest for public and private commercial forest lands to be managed consistent with sound policies of natural resource protection …" The intent of the proposed rule change is to ensure that forest biomass harvest is conducted with all the public resource protections (i.e., for soils, water, fish, wildlife, and capital improvements) afforded in chapter 76.09 RCW and Title 222 WAC.

The Board's objective in adding "or forest biomass" to the definition of "forest practice" is to ensure the public's understanding that activities related to forest biomass harvesting and on-site processing are forest practices activities and therefore subject to all of the protections and standards provided through Title 222 WAC.

CONTEXT

The Forest Practices Board is considering this rule change because of the greatly increased interest over the last several years in the use of forest biomass as an alternative energy source. The slash composed of residual branches, needles, and treetops left over from timber harvest operations, once regarded as a waste product, is now being considered a renewable resource for energy production and a new economic opportunity. There has been an increase in the removal of biomass from Washington's forests for energy generating projects as well as for pre-commercial thinning, forest health, and wildfire fuel reduction purposes. There are new players in the emerging forest biomass field who are not part of the forestry industry and who may not be well informed on forestry issues and forest practices laws and regulations. There may also be

parties in the forest industry, including landowners, who are not aware that forest biomass removal is considered to be a forest practice like timber harvest and related forest management activities and as such is subject to the same public resource protections.

Department of Natural Resources (DNR) forest practices staff members have observed an increase in forest biomass removed from Washington's forests. Most landowners and operators are identifying and documenting these activities in their forest practices applications (FPAs), mostly in conjunction with other timber harvest activities. However, DNR field staff members are noting that some forest biomass removal activities are going on unreported and without FPA regulatory review and approval, especially stand-alone operations not conducted along with other forest practices activities.

This could be due to the rules not being clear that activities related to forest biomass harvest and removal are forest practices the same as activities related to timber harvest. The risk under the status quo is that forest landowners and operators will not be aware that the same permitting requirements and natural resource protections apply to these activities as they do activities related to timber harvest.

When a landowner or operator proposes forest practices activities, including forest biomass removal, all of the associated activities must be noted on the FPA. This gives DNR the opportunity to condition applications prior to the activities taking place, and ensure that public resources are protected during and after operations.

PROPOSED RULE

The proposal is to add the words "or forest biomass" to the definition of "forest practice" in WAC 222-16-010 as shown below.

> *WAC 222-16-010 *General definitions*
>
> . . .
>
> ***"Forest practice"*** *means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber* <u>or forest biomass</u>*, including but not limited to:*
>
> *Road and trail construction;*
> *Harvesting, final and intermediate;*
> *Precommercial thinning;*
> *Reforestation;*
> *Fertilization;*
> *Prevention and suppression of diseases and insects;*
> *Salvage of trees; and*
> *Brush control.*
>
> *"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and*

> *other products which cannot normally be expected to result in damage to forest soils, timber or public resources.*
> . . .

The proposed rule clarifies that activities associated with forest biomass harvest are forest practices activities and as such are required to be included on FPAs.

ASSUMPTIONS

The following assumptions are made in the cost-benefit analysis and the small business impact analysis:

1. There is some level of forest biomass harvest occurring in Washington's forests that is not being reported on FPAs and is therefore being done without FPA review and approval by DNR.
2. There is an increased likelihood and degree of negative impact on public resources resulting from forest biomass harvest activities that occur without DNR forest practices review and approval.
3. Forest biomass harvest is already subject to forest practices regulation, although some forest landowners and operators may not be aware that it is.
4. To the extent the proposed rule change increases awareness, it will increase the amount of information required in FPAs for timber harvest that also include activities associated with forest biomass harvest, and it is likely to increase the number of FPAs for stand-alone forest biomass harvest projects.

COST-BENEFIT ANALYSIS

According to the Administrative Procedure Act (RCW 34.05.328), before adopting rules agencies must complete a cost-benefit analysis to:

- Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented; and
- Determine, after considering alternative versions of the rule, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives of the statute that the rule implements.

<u>Benefits</u>

The intent of the proposed rule is to ensure understanding by the regulated community that activities related to forest biomass harvest are forest practices activities. To the extent the rule increases awareness, it will increase the likelihood that the standards and resource protections provided through forest practices regulation are applied when biomass harvest activities are conducted in the forest environment.

It is not possible to quantify how much biomass harvest is occurring in Washington's forests without approved FPAs. If it is near zero, then the proposed rule change will have little benefit. If it is a significant amount, the rule change will increase resource protection proportionately.

Costs

The subset of the rule-complying community affected by the proposed rule is composed of those parties who are removing forest biomass from Washington's forests without approved FPAs covering this activity. The affected parties do not incur any new costs and are not impacted negatively by the rule change because they are already required to go through FPA approval; they just may not be aware of the legal requirement.

The affected parties may realize a benefit of reduced costs by avoiding enforcement actions and penalties DNR may impose on unreported and unpermitted forest biomass harvest projects.

Comparison of Benefits and Costs

To the extent that there are a significant number of forest biomass harvest operations that are not going through the approval process, and because there are no new costs to the affected parties, there can only be a net benefit from the proposed rule as these activities will now be more likely to come under forest practices review and approval and be afforded the resource protections provided in Washington forest practices laws and rules.

Alternatives to Rule Making and Consequences of Not Adopting the Rule.

The only alternative considered to this rule making is not adopting the rule. Not adopting the proposed rule change could perpetuate any misunderstanding that activities associated with forest biomass harvest are not forest practices and therefore not subject to the protections and standards provided under Title 222 WAC. This could result in harm to forest soils and public resources protected by the Forest Practices Act and rules.

The Board recognizes that there may be a need to further define forest biomass in the forest practices rules and to set standards for what activities related to biomass harvest are acceptable in the forest environment. The Board is considering a subsequent stage of rule making to more specifically address forest biomass harvest, but this is beyond the scope of the proposed rule change.

Least Burdensome Alternative

The Administrative Procedure Act states that agencies shall determine after considering alternative versions of the rule, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives of the statute that the rule implements (RCW 34.05.328(1)(e)).

The Forest Practices Act indicates that, coincident with maintenance of a viable forest products industry, it is important to afford protection to a variety of public resources (RCW 76.09.010).

Not adopting the proposed rule change is not a viable alternative because that would not achieve the general goals and specific objectives of the statute that the rule implements (i.e., public resource protection). Because of its limited scope and because it imposes no new costs on affected parties, it is less burdensome than other potential alternatives, such as creating a new subset of forest practices rules that more specifically address forest biomass harvest.

SMALL BUSINESS IMPACTS

A small business economic impact statement is required by the Regulatory Fairness Act (chapter 19.85 RCW) to consider the impacts on small businesses of administrative rules adopted by state agencies. The statute defines small businesses as those with 50 or fewer employees. To determine whether the proposed rule will have a disproportionate cost impact on small businesses, the impact statement compares the cost of compliance for small business with the cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the proposed rule.

Small Business Analysis

Since there are no new or additional requirements or costs imposed on any members of the regulated community by the proposed rule change, there is no disproportionate cost impact on small businesses.

Reducing Costs for Small Businesses

RCWs 19.85.030 and .040 address an agency's responsibility in rule making to consider how costs may be reduced for small businesses, based on the extent of disproportionate impact on the small businesses. Since there is no impact on costs for any businesses, large or small, there is no disproportionate impact on small businesses.

Estimated Number of Jobs Created or Lost

RCW 19.85.040 (2)(d) requires that the economic analysis include "(a)n estimate of the number of jobs that will be created or lost as the result of compliance with the proposed rule." There is no change in the number of jobs resulting from adopting the proposed rule change because it doesn't affect the level of forest biomass harvest activity.

CONCLUSIONS

The expected benefit of this rule is additional protection for public resources in Washington's forests. There is no cost impact on those who are required to comply with the rule. Therefore it is reasonable to conclude that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative benefits and costs of the proposed rule.

Not adopting the rule is not a viable alternative because that would not achieve the general goals and specific objectives of the statute that the rule implements (i.e., protecting public resources in the forest environment).

The proposed rule is the only alternative considered by the Board. Because of its limited scope and because it imposes no new costs on affected parties, it is less burdensome than other potential alternatives, such as creating a new subset of forest practices rules that more specifically address forest biomass harvest.

A comparison of the estimated potential impact to small businesses and the ten percent of the largest businesses that are required to comply with the rule shows that there is no impact on any businesses and therefore the rule would not disproportionally impact small businesses.

The analysis concludes that the rule will have no impact on overall employment.

STATE OF WASHINGTON **PO Box 47012**
FOREST PRACTICES BOARD **Olympia, WA 98504-7012**

As required by
the Administrative Procedure Act
Chapter 34.05 RCW

DRAFT
CONCISE EXPLANATORY STATEMENT
AND
RESPONSIVENESS SUMMARY
FOR THE ADOPTION OFAMENDMENT TO
WAC 222-16-010
Forest Biomass Rule Making

Prepared by: Gretchen Robinson
April 19, 2011

Introduction

Washington state agencies are required to provide a concise explanatory statement to any person upon request or from whom the agency receives comments during a rule making (RCW 34.05.325(6)). Before an agency adopts a rule, the agency:

> *…shall prepare a concise explanatory statement of the rule:*
> *(i) Identifying the agency's reasons for adopting the rule;*
> *(ii) Describing differences between the text of the proposed rule, as published in the register and the text of the rule as adopted, other than editing changes, stating the reason for the differences; and*
> *(iii) Summarizing all comments received regarding the proposed rule, and responding to the comments by category or subject matter, indicating how the final rule reflects agency consideration of the comments, or why it fails to do so.*

Content of the rule, reasons for adopting the rule

The Forest Practices Board's Forest Biomass rule making amends the definition of "forest practice" in WAC 222-16-010 by inserting "or forest biomass" into the lead-in sentence of that definition.

There is an emerging industry in Washington State in which forest biomass is converted to energy and energy products. Amending the definition in this way is intended to ensure public understanding that forest biomass harvest is subject to the same resource protection measures as timber harvest in the forest practices rules.

Differences Between Proposed and Final Rule

There is no difference between the proposed rule and the final rule.

Comments

All comments received were in support of the Forest Biomass rule proposal. The Board conducted three public hearings as shown in the following timeline. The hearings were held to receive testimony on the three rule making subjects: Watershed Analysis, Riparian Open Space Program, and Forest Biomass. The Board received testimony from three individuals at the Olympia hearing representing Rayonier Inc., Longview Timberlands, and Washington Forest Protection Association. In addition, the Board received written comments in support of the Forest Biomass rule making from Hancock Forest Management, the City of Bellingham Department of Public Works, and Bernadette Gardner John. There was no attendance at the hearings in Ellensburg and Sedro Woolley.

Rule making timeline and public involvement opportunities

9/15/10	Preproposal Statement of Inquiry (CR-101) published in the Washington State Register
10/2010	DNR, Forest Practices Division, conducted three rule development sessions with interested stakeholders and tribal caucus
11/10/10-12/13/10	Thirty day review of draft language by counties, WDFW (per RCW 76.09.040(2)), and tribes
3/2/11	Proposed Rule Making (CR-102) and preliminary economic analysis published in Washington State Register
3/16/11	SEPA checklist and threshold determination distributed
3/24/11	Public hearing, Ellensburg.
3/30/11	Public hearing, Olympia
3.31/11	Public hearing, Sedro Woolley
4/1/11	Due date for public comments

Adoption date

The expected adoption date of the rule is May 10, 2011.

Hancock Forest Management®

A Division of Hancock Timber Resource Group, A Manulife Asset Management Company

Timothy C. McBride
Wildlife Biologist

17700 SE Mill Plain Blvd
Suite 180
Vancouver, WA 98683

(360) 866-8068
(617) 956-9063 fax
(253) 208-7577 mobile
tmcbride@hnrg.com

www.hancocktimber.com

March 30, 2011

Patricia Anderson, FPB Rules Coordinator
Department of Natural Resources
Forest Practices Division
PO Box 47012
Olympia, WA 98504-7012

Forest Practice Board Chairman,

Honorable Peter Goldmark,

Representing Hancock Forest Management and the Hancock Timber Resource Group, I want to submit comments to the WA Forest Practices Board regarding the changes to forest practice rules on biomass, watershed analyses and riparian open space.

We appreciate the pragmatic and collaborative approach your staff and the Department of Natural Resources has undertaken to make these changes. Regarding the riparian open space program changes, it is encouraging that the collective stakeholder group has acknowledged that there is considerable value in timberland habitats that support terrestrial wildlife species. Regarding the incorporation of biomass into the definition of forest practices displays your support of a long-lived continuing industry and use of sound reasoning support the timber industry as a whole. Incorporating biomass harvest into the forest management regime presents us with unique opportunities to easily address three challenging needs regarding restoring forest health, fire resiliency and wildlife habitat, finding renewable energy alternatives, and revitalizing rural economies. Regarding watershed analyses, we believe the approach selected will provide a long-term process framework that provides certainty that a set of regulatory procedures are maintained for reviewing and incorporating changes to established prescriptions.

Thank you again for your continued support of the timber industry.

Sincerely,

Tim McBride

Longview Timberlands LLC
P.O. Box 667
10 International Way
Longview, WA 98632
Phone (360) 442-4350
Fax (360) 575-5932

March 30, 2011

Patricia Anderson
Forest Practice Rules Coordinator
Washington Department of Natural Resources
PO Box 47012
Olympia, WA 98504-7012

Submitted via electronic mail

Re: Public Comment on revisions to WAC 222 as it relates to forest biomass harvest, watershed analysis reviews, and the addition of threatened or endangered species habitat in the Riparian Open Space Program.

Dear Ms. Anderson:

Longview Timberlands, LLC would like to provide the following comments on the three areas of proposed rule changes of WAC 222 being considered by the Forest Practice Board:

Forest Biomass Harvest

Longview Timberlands supports the proposed rule changes that clarify biomass harvest as a forest practice. Longview Timberlands has always recognized that these operations should be covered under the State's Forest Practice Rules and any biomass operations have been conducted accordingly. Given the significant amount of controversy surrounding many aspects of the biomass issue, it is critical the Forest Practice Board and the Department of Natural Resources be able to clearly communicate that these activities as they are conducted in the woods are regulated in the same fashion as other activities, and that all of the ancillary regulations, such as road maintenance, apply to these activities.

Watershed Analysis Reviews

Longview Timberlands supports the proposed rule change addressing watershed analysis reviews. While the rule proposal before the Forest Practice Board was not arrived at easily, it represents a solid compromise that ensures that public resources will continue to be protected while preserving existing options within the current rules for use of the watershed specific prescriptions.

As the Board Manual for the review process becomes finalized, Longview Timberlands will evaluate the prescriptions for the watersheds that we own lands in and determine if we will engage in re-analysis as a sponsor or co-sponsor, should the Department of Natural Resources request a re-analysis.

It is important to recognize, in particular during these difficult economic times, that one of the changes in this rule proposal transfers the cost of implementing the review process from the Department of Natural Resources to the landowners sponsoring the reviews.

Riparian Open Space Program

Longview Timberlands supports the proposed rule change adding forest lands containing critical habitat for threatened or endangered species as designated by the Forest Practice Board to be eligible for the Riparian, now Rivers and Habitat, Opens Space Program. This rule will not only create the possibility of State funding to secure the ecosystem values in these lands, but it also opens up funding from other programs previously not feasible for landowners due to federal valuation policies. This combined effect of adding potential revenue and at the same time removing a barrier to existing revenues is exactly the kind of incentive programs forest landowners are looking for.

Sincerely,

Adrian Miller
Manager of Policy and Sustainability

Lazy J Ranch 20 Mar 2011

MASSANUTTEN MOUNTAIN PEAK
IN THE SHENANDOAH VALLEY

Halfway between Harrisonburg and Front Royal, the Massanutten peak dominates the center of Virginia's most famous valley. Concealed behind its peak is a vast year-round leisure resort.

#2011-1

Dear Mr Goldmark &
Ms Anderson -
Thank you for sending me the New definition of Forest Practices to include "Forest Biomass" as timber harvest operations. I like to keep up with what is going on w/ New Rules & Regulations.
Thank you. Bernadette Gardner John

Bernadette Gardner John
1751 Centralia Alpha Rd
Chehalis, WA 98532-9526

Peter Goldmark
post card &
Patricia Anderson
DNR
PO Box 47012
Olympia WA State
98504-7012

DEPARTMENT OF PUBLIC WORKS
210 Lottie Street, Bellingham, WA 98225
Telephone (360) 778-7900 FAX (360) 778-7901

March 28, 2011

Forest Practices Board
c/o Patricia Anderson, Rules Coordinator
Department of Natural Resources
PO Box 47012
Olympia, WA 98504-7012
fax: (360) 902-1428
e-mail: forest.practicesboard@dnr.wa.gov

Patricia Anderson,

The City of Bellingham supports the Forest Practices Board proposal to include forest biomass harvest in the definition of Forest Practices, thereby ensuring that biomass harvest is subject to environmental review. Forest lands both public and private account for almost two thirds of the land use in the Lake Whatcom watershed which is the City's water supply reservoir. Forest biomass harvest could result in increased sedimentation and slope instability if practiced without environmental impacts review. The City appreciates the Forest Practices Board's attention to this issue.

Clare Fogelsong

Clare Fogelsong, Environmental Resources Manager
City of Bellingham
778 7965

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

April 1, 2011

Patricia Anderson, Rules Coordinator
WA State Department of Natural Resources
Forest Practices Board
1111 Washington Street Southeast
Olympia, WA 98504-7000

Dear Ms. Anderson:

Thank you for the opportunity to comment on the determination of nonsignificance for the Forest Practice Rule Proposal: Add Forest Biomass to the definition of "Forest Practice" in WAC 222-16-010. The Department of Ecology (Ecology) reviewed the environmental checklist and has the following comment(s):

SHORELANDS & ENVIRONMENTAL ASSISTANCE: Alex Callender (360) 407-6167

Biomass should not be extracted from wetland areas as these areas depend on biomass for function and habitat.

Ecology's comments are based upon information provided by the lead agency. As such, they may not constitute an exhaustive list of the various authorizations that must be obtained or legal requirements that must be fulfilled in order to carry out the proposed action.

If you have any questions or would like to respond to these comments, please contact the appropriate reviewing staff listed above.

Department of Ecology
Southwest Regional Office

(SM:11-1187)

cc: Alex Callender, SEA

STATE OF WASHINGTON
FOREST PRACTICES BOARD

PO Box 47012
Olympia, WA 98504-7012

RECEIVED
MAR 21 2011
Forest Practices Division

DETERMINATION OF NONSIGNIFICANCE

See comments

Description of proposal:

The Forest Practices Board proposes to amend the definition of "forest practice" in WAC 222-16-010. The phrase "forest biomass" is added to the definition to ensure understanding by rule users that forest biomass harvest is a forest practice and subject to all environmental protections required for timber harvest in the forest practices rules (Title 222 WAC).

Proponent: **Forest Practices Board**

Location of proposal, including street address, if any:

This is not a site-specific proposal. State and private forest lands (non-federal, non-tribal forest lands) in Washington State are subject to the forest practices rules (Title 222 WAC).

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 May 10, 2011. Comments must be submitted by April 1, 2011.

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: March 16, 2011 **Signature:** Peter Goldmark

from:

Mr Roger Scott
4611 17th Ave SE
Lacey WA 98503-2641

Comments on
See pg 5 of 12,
2 of 12.

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:
   Forest Practices rule proposal: Add forest biomass to the definition of "forest practice" in WAC 222-16-010.

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:
   December 2010

5. Agency requesting checklist:
   Forest Practices Board

6. Proposed timing or schedule (including phasing, if applicable):
   The Forest Practices Board may consider rule adoption at the May 10, 2011 quarterly meeting. If the Board adopts a rule in May, the rule will be effective in June 2011.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.
   The Department of Natural Resources (DNR), at the request of the Board, has convened a stakeholder group to establish a dialog on what might be involved in addressing sustainable biomass harvest from forest lands. The emphasis of the group is to gain a clear understanding of specific concerns about forest biomass harvest under the forest practices rules (Title 222 WAC) and develop a plan for "next steps" by the group. Next steps will likely include: better understanding of the state of the science and operation feasibility; monitoring field operations and the adequacy of existing regulations; and reporting conclusions back to the Forest Practices Board.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.
None.

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 applicable. The proposal is a rule amendment in Title 222 WAC, *Forest Practices Board*, not a site-specific proposal. Rule making is categorized in SEPA rules as a "non-project" action (WAC 197-11-704(b)).

10. List any government approvals or permits that will be needed for your proposal, if known.
The Forest Practices Board adopts rules in Title 222 WAC.

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.)
The Forest Practices Board proposes to amend the definition of "forest practice" in WAC 222-16-010. The phrase, "or forest biomass" is added to the definition to ensure understanding by the regulated community that forest biomass harvest is a forest practice and subject to all environmental protections required in the forest practices rules for timber harvest.

Please see the rule amendment and a more extensive description of the proposal in section D, Supplemental Sheet for Nonproject Actions.

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.
This is not site-specific proposal. State and private forest lands (non-federal, non-tribal forest lands) in Washington State are subject to the forest practices rules (Title 222 WAC).

B. ENVIRONMENTAL ELEMENTS

1. Earth
This is not a site-specific proposal. None of the questions in this element are applicable to a nonproject proposal. Please see section D, Supplemental Sheet for Nonproject Actions, for an explanation of expected impacts.

a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountains, other …
up to 60% slope

b. What is the steepest slope on the site (approximate percent slope)?
60%

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.

Clay, clay-loam, gravel loam

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

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

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

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

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

2. Air

This is not a site-specific proposal. None of the questions in this element are applicable to a nonproject proposal. Please see section D, Supplemental Sheet for Nonproject Actions, for an explanation of expected impacts.

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.

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

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

3. Water

This is not a site-specific proposal. None of the questions in this element are applicable to a nonproject proposal. Please see section D, Supplemental Sheet for Nonproject Actions, for an explanation of expected impacts.

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.

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.

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

* All of these items mentioned before or after may have some bearing on the application for biomass treatment. By "biomass treatment" I mean scarifying so as to load into 27' vans to arrive at paper mill for grinding. These sitie's should be replanted.

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

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

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:
This is not a site-specific proposal; not applicable.

N Rogerstad - Forester
(360) 459-3809

b. List any threatened or endangered species known to be on or near the site.
This is not a site-specific proposal; not applicable.

c. Is the site part of a migration route? If so, explain.
This is not a site-specific proposal; not applicable.

d. Proposed measures to preserve or enhance wildlife, if any:
Please see section D, Supplemental Sheet for Nonproject Actions, for an explanation of expected impacts to wildlife.

6. Energy and Natural Resources
This is not a site-specific proposal. None of the questions in this element are applicable to a nonproject proposal. Please see section D, Supplemental Sheet for Nonproject Actions, for an explanation of expected impacts.

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.

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

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:

7. Environmental Health
This is not a site-specific proposal. None of the questions in this element are applicable to a nonproject proposal. Please see section D, Supplemental Sheet for Nonproject Actions, for an explanation of expected impacts.

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.