

PRELIMINARY COST-BENEFIT ANALYSIS
Pursuant to RCW 34.05.328
Forest Practices Board
Acceptance of Electronically Submitted Forest Practices Applications
June 2017

Introduction

The Forest Practices Board (Board) is proposing rule amendments related to adding electronic transactions as an option for prospective applicants submitting forest practices applications and notifications (FPA/N). For DNR to accept and approve an FPA/N, applicants must provide necessary information, sign the FPA/N and pay a specified fee amount.¹ The proposed rule will allow applicants to submit digital signatures and submit payments electronically. Legislative authority for agencies creating a framework for implementing electronic transactions is found in RCW 19.360.010. Washington State’s Office of the Chief Information Officer (OCIO) provides information agencies can use for establishing policy or rules governing the use and acceptance of electronic signatures.

The Administrative Procedure Act (chapter 34.05 RCW) requires agencies to make certain determinations before adopting rules. This document is structured to fulfill agency requirements listed in [RCW 34.05.328\(1\)\(a\) through \(e\)](#), and small business impact per the Regulatory Fairness Act, [chapter 19.85 RCW](#).

Goal and Need

Before adopting rules, agencies are required to determine that rules are needed to achieve the general goals and specific objectives of the statute the rules implement.² In this case, the statute being implemented is RCW 76.09.060(1):

The department shall prescribe the form and contents of the notification and application. The forest practices rules shall specify by whom and under what conditions the notification and application shall be signed or otherwise certified as acceptable. ...The application or notification shall be delivered in person to the department, sent by first-class mail to the department or electronically filed in a form defined by the department.

This statute establishes DNR’s authority to specify the information needed on an FPA/N and establishes the process by which DNR receives FPA/Ns.

The Board’s Preproposal Statement of Inquiry (CR-101) indicates that the proposed rule “...will allow applicants to submit an electronic FPA/N in addition to the current acceptable methods for submittal of an FPA/N through certified mail or hand delivery to a Department of Natural Resources region office.” The goal of the proposed rule is to provide an alternative option in addition to existing methods of submitting and paying for an FPA/N. This rule will not prevent landowners from submitting or providing payment for an FPA/N through conventional methods if they do not have access to electronic platforms or desire to use electronic systems.

DNR’s Forest Practices Division is in the process of updating the current business application system. The new system, when active, will provide the ability for applicants to submit an FPA/N

¹ Forest practices fees are charged for most forest practices activities, not all activities require fees. RCW 76.09.065.

² RCW 34.05.328(1)(b).

through electronic formats, including signatures and fee payment. This rule will precede the new applications system. Providing electronic transactions is a business model practiced within both government and within private sector as a way to lower transaction costs for both customers and organizations alike.

Rule Proposal

The rule proposal amends WAC 222-20-010 and WAC 222-20-030. Minor content addition in subsection (3) in WAC 222-20-010 makes clear that electronic signatures submitted through an electronic system will be accepted once DNR implements the new system and hold the same standing as a hand written signature. Additional content is subsection (8) in WAC 222-20-010 specifies that an electronically submitted applications and payment will be considered received pending review by region staff.³ Minor content addition in subsection (1) in WAC 222-20-030 clarifies the ability for applicants to submit FPA/Ns through conventional means *or* by an electronic system to the appropriate region office.

Alternatives to Rule Making, Consequences of Not Adopting a Rule, and Least Burdensome Alternative

Agencies must analyze alternatives to rule making and the consequences of not adopting a rule⁴, and must determine, after considering alternatives, that the rule being adopted is the least burdensome alternative for those required to comply with it.⁵ The Board is not considering alternative versions of the proposed rule, but there may be alternative ways to accomplish the Board's goal to, "provide an alternative option in addition to existing methods of submitting an FPA/N." Alternatives that were considered are as follows:

Alternative 1: Adopt the proposed rule.

Alternative 2: Do not adopt the proposed rule.

Alternative 3: Do not adopt the proposed rule but accomplish the goal using another method.

Alternative 4: Adopt the proposed rule and supplement the goal by another method.

- Alternative 1 would accomplish the goal.
- Alternative 2 would not accomplish the goal.
- Alternative 3 could accomplish the goal to some extent, but would require DNR as an agency to adopt a policy that covers all operational divisions of DNR. Communicating that an electronically submitted FPA/N is an acceptable method could be added to the FPA/N instructions.
- Alternative 4 would accomplish the goal to a greater extent than either 1 or 3.

Concerning the consequence of not adopting the rule, DNR and/or the Forest Practice Division would need to establish a policy for accepting electronic formats. Although the OCIO allows agencies to implement this through policy or rule, the Board has elected to accomplish this through rule making. This decision is consistent with the adoption of past rules governing the Board's FPA/N application and notification chapter.

³ The same process used for receiving FPA/Ns and payment by mail and the subsequent review by region staff to verify completeness will apply to electronically submitted FPA/Ns.

⁴ RCW 34.05.328(1)(b).

⁵ RCW 34.05.328(1)(e).

Alternative 4 may be the most effective method because it would reach prospective applicants who rely on the rules for their information, and also applicants who rely on the FPA/N instructions for their information. Adopting rule also clarifies the manner in which region offices receive completed FPA/Ns. In addition, a rule would ensure electronic signatures have the same force and effect as that of a signature fixed by hand. Other modes of information such as the Forest Practices Illustrated or tutorial guides would also provide applicants the knowledge regarding electronic processes.

As for a “least burdensome” alternative, none of the listed alternatives would be more burdensome for applicants than DNR’s current FPA/N submittal and payment process.

Benefit and Cost of the Rule

Before adopting rules, agencies must 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.⁶

DNR is electing not to quantitatively assess the rule proposal since the costs to implement are accrued by DNR and the benefits are passed on to applicants opting to use electronic transactions. The rule is an expansion of DNR’s current business model and does not change, nor impose additional requirements for those wishing to submit FPA/Ns.

Benefit: Providing the ability for applicants to submit signatures and payment electronically is expected to benefit prospective applicants seeking the option to do so. In some cases, the use of electronic records decreases transaction times and reduces costs, such as savings in reduced printed material or travel time associated with delivering FPA/Ns to region offices. It is anticipated that the more applicants use electronic options provided with the new system, the greater an awareness of its efficiency will occur.

Cost: Because DNR already requires the potential applicants to sign an FPA/N and provide fees for conducting certain forest practices activities, landowners will not bear any additional costs from this rule making.

Initial upfront program costs to DNR will occur for the anticipated building of the new electronic business system. Cost estimates are not available because the new system is still in the planning phase. However, incorporating electronic options into the planned system will not affect the decision to move forward by the department.

Small Business Impacts

The Regulatory Fairness Act requires state agencies prepare a small business economic impact statement (SBEIS) for proposed rules if the rules will impose more than minor costs on businesses in an industry.⁷ The purpose of the SBEIS is to look at how a rule might impact small businesses. When these impacts are identified, the agency must try to find ways to reduce those impacts.

As previously stated, the rule is not expected to impose additional costs to applicants because it is an expansion of the existing process and does not change DNR’s FPA/N requirements or fees. In some cases, utilizing an electronic option may disproportionately benefit smaller businesses by

⁶ RCW 34.05.328(1)(d).

⁷ RCW 19.85.030.

reduced transit times to region offices. Therefore, the proposed rule does not meet the threshold of imposing more than minor costs on businesses, and an SBEIS is not required.

Summary

Goal of the rule proposal

The Board's goal in adopting the rule proposal is to provide an electronic option when submitting an FPA/N and providing payment for forest practices activities. The proposed rule language supplements the existing language in WAC 222-20-010 and -030 by specifying that DNR will accept electronic signatures and payment once DNR has implemented the new system. The process for receiving and reviewing an FPA/N and payment by region staff will be the same for those submitted by mail or through an electronic format.

Alternatives to rule making and consequence of not adopting a rule

Per Washington State's OCIO guidelines, agencies must establish use of electronic systems by policy or rule. The alternative method to accomplish the Board's goal through DNR policy would not reach the intended audience. Some prospective applicants rely on rules for their information rather than on agency websites or policy links. For that reason, the consequence of not adopting the rule may be that this subset of prospective applicants will not be adequately informed. The most effective way to reach the targeted audience therefore, is to both adopt the proposed rule and add the information to the FPA/N instructions to assure that as many applicants as possible understand their options.

Benefit and cost of the rule proposal

It is expected that adding language to chapter WAC 222-20 regarding electronic signature and payment options will be beneficial for prospective applicants. This rule making does not limit the method DNR will accept an FPA/N and receive payment, nor conversely, require prospective applicants to use only electronic formats. Therefore, individuals will not bear additional costs because DNR's business model will continue to allow prospective applicants to submit FPA/Ns signed by hand and provide payment by conventional means.