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NATURAL
RESOURCES


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MEMORANDUM

September 30, 2021

TO: TFW Policy Committee

FROM: Saboor Jawad, Adaptive Management Program Administrator 

SUBJECT: WFFA Proposal Initiation Request

On August 05, 2021, I received a Proposal Initiation (PI) request from Ken Miller on behalf of the Washington Farm Forestry Association (WFFA). This memo serves as my overall recommendation and transmits to the Policy Committee the Adaptive Management Program (AMP) Administrator's assessment of the PI request (Forest Practices Board Manual Section [M22-8](#) and [WAC 222-12-045\(2\)\(d\)](#)).

The PI states that [WAC 222-12-0403\(5\)](#) requires a definition for “relatively low impact” alternate plans. A three-point criteria is presented as consensus recommendation of the Small Forest Landowner Advisory Committee (SFLOAC). The proposal requests the approval of the definition by the Forest Practices Board (FPB) and seeks to update the FPB Manual Section 21-Guidelines for Alternate Plans. The proposed criteria defines a relatively low impact alternate plan as:

- 1- An activity with short-term impact which produces a better long-term outcome
- 2- An activity beyond the point of diminishing returns for resource protection
- 3- Smaller harvest units with stream reaches that are relatively smaller in width or shorter in length than typical larger landowner harvests

“Relatively low impact” is a phrase that doesn't appear in [WAC 222-12-0403\(5\)](#). This section of the rule recommends the development of criteria that will assist the Department of Natural Resources (DNR) in “determining whether a small forest landowner alternate plan qualifies as a low impact alternate plan”. The approval standard for alternate plans, importantly, is set by statute and states in part that “alternate plans should provide protection to public resources at least equal in overall effectiveness by alternate means” ([RCW 76.09.370\(3\)](#)). Another statute indicates “alternate plans or alternate harvest restrictions shall meet riparian functions while requiring less costly regulatory prescriptions” ([RCW 76.13.110\(3\)](#)). The Board's approval standard draws from these provisions, and indicates that “[a]n alternate plan must provide

protection for public resources at least equal in overall effectiveness to the protection provided in the act and rules.” [WAC 222-12-0401](#)(6). This standard applies to all alternate plans – however defined - including those proposed by small forest landowners.

I note that the FPB has already developed the criteria suggested by [WAC 222-12-0403](#)(5). DNR forest practices foresters use the existing criteria to evaluate the suitability of each alternate plan proposal to protect and provide riparian functions at levels determined by existing law and rule. The existing four-point criteria in Manual Section 21 ([MS 21-8](#)) responds to the rules criteria and correctly applies the statutory approval standard (Table 1). The existing criteria, moreover, not only cover the three points proposed by the PI but also covers site-specific conditions beyond just channel structure. Alternate plans are proposed – as set forth in [RCW 76.09.370](#)(3)- to respond to site-specific physical features.

Table 1: The PI’s comparison with existing FPB Manual Criteria for evaluating alternate plans

Existing FPB Manual Criteria for evaluating alternate plans	Proposed criteria for small forest landowner low impact alternate plan	AMPA Comments
(1)-The goal of the riparian rules which is to protect aquatic resources and related habitat to achieve restoration of riparian function, and to maintain these resources once they are restored. The rules provide for the conversion and/or treatment of riparian forests which may be understocked, overstocked or uncharacteristically hardwood-dominated while maintaining minimum acceptable levels of riparian function	(2)-An activity beyond the point of diminishing returns for resource protection	Both criteria assesses alternate plans in relation to resource protection. In FPB, it follows a thorough discussion on evaluating riparian functions citing the same literature as the PI has (FEMAT 1993).
(2)-The extent to which each riparian function is currently found in the riparian area.	(2)- An activity beyond the point of diminishing returns for resource protection	Both criteria assesses alternate plans in relation to resource protection. In FPB, it follows a thorough discussion on evaluating riparian functions citing the same literature as the PI has (FEMAT 1993).
(3)-Which site conditions (for example, topography, channel structure, elevation, site class, and soil type) may impact the risks from proposed management activities	(3)-Smaller harvest units with stream reaches that are relatively smaller in width or shorter in length than typical larger landowner harvests	Both criteria uses site-specific physical features to classify magnitude of impact. The existing criteria is broader and includes additional site-specific physical features and not just channel structure.
(4)-Whether the overall benefit to the aquatic environment after proposed management activities would provide a greater long-term benefit in function than the potential short-term decrease in function.	(1)An activity with a short-term impact which produces a better long-term outcome	Both criteria evaluates short-term and long-term impacts.

The PI, as proposed, neither informs forest practices rules nor would approval of the proposed definition affect how forest practices are conducted with respect to aquatic resources. The existing statutory standard would still apply even if the proposed criteria were to be approved by the FPB into Manual Section 21. Furthermore, the PI request doesn't clearly state, nor could I identify, any urgency based on scientific uncertainty and resource risk. The PI request doesn't reduce uncertainty but contributes a definition that would require frequent re-interpretation because it is indistinct. These points are important in determining the applicability and relevance of a project in the AMP.

My assessment concludes that the PI request is not applicable in the AMP. The proposed definition of low impact alternate plan, moreover, is also unnecessary because the FPB Manual already has criteria to evaluate the impact of alternate plans.

My recommendation to the Policy Committee is to not accept the PI request as a project in the AMP. I base my recommendation on the PI's unclear relevance and applicability in the AMP and the doubtful necessity of advancing a new definition while detailed set of criteria already exist in the FPB Manual.

Attachments:

- Appendix 1: AMP Administrator Assessment
- Appendix 2: WFFA Proposal Initiation

Appendix 1: AMP Administrator Assessment

1- Proposal Initiation

The WFFA Proposal Initiation (PI) request was delivered to the Adaptive Management Program Administrator (AMPA) by email on 05 August 2021. The Washington Farm Forestry Association is the proponent and an AMP participant. The submission follows the instructions of WAC 222-12-045(2)(d)(i) and the guidance of the Forest Practices Board (FPB) Manual Section 22.

The proposal was submitted after the annual deadline suggested by the FPB Manual. The FPB Manual Section 22-7 states that proposals for “the Adaptive Management Program process should be submitted prior to the first day of July to be considered for inclusion the following year’s fiscal work plan. This date is used to provide a systematic and consistent annual process, regardless of whether proposals require funding. Proposals submitted to the Administrator after the first day of July are at risk of not being considered in the subsequent fiscal year.”

The PI process begins with the AMPA’s assessment who is directed by FPB Manual to identify:

1. The affected forest practices rule, guidance, or DNR product;
2. The urgency based on scientific uncertainty and resource risk;
3. Any outstanding TFW, FFR, or Policy Committee agreements supporting the proposal;
4. How the results of the proposal could address AMP key questions and resource objectives or other rule, guidance, or DNR product; and
5. Available literature, data and other information supporting the proposal.

The proponents have answered these questions in the PI request. The AMPA additionally addresses these questions as part of the Administrator’s assessment of management and resource implications below.

2- Summary of the Proposal

The WFFA PI requests the FPB to accept a definition of relatively low impact criteria for small forest landowner alternate plans. The PI also seeks an update of FBP Manual Section 21- Guidelines for Alternate Plans. The proposed definition is presented as the consensus of the Small Forest Landowner Office Advisory Committee (SFLOAC). The following is the proposed definition of the relatively low impact criteria:

“The Small Forest Landowner Office Advisory Committee (SFLOAC) defined three potential criteria that can be used to define “relatively low impact” alternate plan to the Small Forest Landowner Office as required by WAC 222-12- 0403(5).

- 1) *An activity with a short-term impact which produces a better long-term outcome*
- 2) *An activity beyond the point of diminishing returns for resource protection*

- 3) *Smaller harvest units with stream reaches that are relatively smaller in width or shorter in length than typical larger landowner harvests*”(WFFA PI, 2021)

The proposal also includes an additional statement that is presented as the consensus of the SFLOAC. The statement reads:

“The ongoing engagement of working forest landowners is critical for achieving the resource protection objectives. When faced with the disproportionate economic impact of regulations, the risk of land conversion or disengagement by landowners increase, leading to greater and longer lasting impacts than ongoing forest management”(WFFA PI, 2021)

The PI doesn’t clarify whether the additional statement is also proposed to be included as an update to the FPB Manual Section 21.

The proponents state that WAC 222-12-0403(5) requires the department to develop a criteria for “relatively”¹ low impact alternate plans. Since the adoption of Forest Practices Rules, the proponents say, no such criteria has been developed by the Department of Natural Resources (DNR) and adopted by the FPB. Furthermore, the proposal states that the matter has been under discussion in SFLOAC and that no action has been taken by the Board to date.²

3- Adaptive Management Program Applicability

The Administrator is to assess a proposal for its applicability and relevance to the AMP, i.e., whether it would affect how forest practices are conducted with respect to aquatic resources, or whether it is a directive from the Board to include within the AMP. In this step the Administrator is also to consider outstanding agreements including any formal agreements from TFW (1987), FFR (1999), or current Policy agreements related to the issue, and determine if they are interpreted correctly in the proposal. The Board Manual further provides that proposals “are initiated as requests for investigation of potential changes to forest practices rules, guidance, or DNR products.” In general, the types of proposals considered for the AMP are requests for:

- Research and monitoring of scientific uncertainty and resource risks;
- Policy interpretations and modifications to improve forest practices management and aquatic resource protection; and
- Review of completed technical studies or issue analyses for consideration in the adaptive management program”.

The PI doesn’t neatly fit in any of the categories listed above. The PI request neither seeks to change current policy language in relevant WACs nor proposes the adoption of new rules. Moreover, the proposed criteria for low impact alternate plans doesn’t affect how forest practices are conducted. The standards set by statute for the evaluation of alternate plans would still apply

¹ The word “relatively” doesn’t appear in the cited policy. The relevant WAC mentions “low impact alternate plans.”

² WAC 222-12-0403(5) indicates that the Board Manual “should include” criteria to help DNR evaluate alternate plans. This is not a requirement, but in any case, the Manual does include evaluative criteria, as explained below.

even if the proposed criteria is approved by FPB and relevant guidance is also updated. Modifying statutory standards is beyond the remit of the FPB and by extension the AMP as well.

The PI does, however, affect forest practices guidance and may also affect DNR products as they relate to alternate plans. The affected guidance include the FPB Manual Section 21 which sets out guidelines for alternate plans.

In addition to a thorough discussion of how to evaluate riparian functions at a site, the FPB Manual Section 21 already includes a four-point criteria to guide the evaluation of alternate plans. The existing criteria is broader than the proposed criteria and includes the elements of the proposed criteria. A comparison of both criteria is provided in Table-1 below.

Table-1: Comparison of existing FPB Manual criteria for evaluating alternate plans

Existing FPB Manual Criteria for evaluating alternate plans	Proposed criteria for small forest landowner low impact alternate plan	AMPA Comments
(1)-The goal of the riparian rules which is to protect aquatic resources and related habitat to achieve restoration of riparian function, and to maintain these resources once they are restored. The rules provide for the conversion and/or treatment of riparian forests which may be understocked, overstocked or uncharacteristically hardwood-dominated while maintaining minimum acceptable levels of riparian function	(2)-An activity beyond the point of diminishing returns for resource protection	Both criteria assesses alternate plans in relation to resource protection. In FPB, it follows a thorough discussion on evaluating riparian functions citing the same literature as the PI has (FEMAT 1993).
(2)-The extent to which each riparian function is currently found in the riparian area.	(2)- An activity beyond the point of diminishing returns for resource protection	Both criteria assesses alternate plans in relation to resource protection. In FPB, it follows a thorough discussion on evaluating riparian functions citing the same literature as the PI has (FEMAT 1993).
(3)-Which site conditions (for example, topography, channel structure, elevation, site class, and soil type) may impact the risks from proposed management activities	(3)-Smaller harvest units with stream reaches that are relatively smaller in width or shorter in length than typical larger landowner harvests	Both criteria uses site-specific physical features to classify magnitude of impact. The existing criteria is broader and includes additional site-specific physical features and not just channel structure.
(4)-Whether the overall benefit to the aquatic environment after proposed management activities would provide a greater long-term benefit in function than the potential short-term decrease in function.	(1)An activity with a short-term impact which produces a better long-term outcome	Both criteria evaluates short-term and long-term impacts.

The existing criteria in FPB Manual is broader and clearly encompasses the criteria proposed by WFFA. It is also important to note that the existing criteria is closer to the statutory approval standard than the proposed criteria in the PI.

4) Assessment of Management and Resources Implications

To inform Policy and the FPB of the applicability and relevance of a PI to the AMP, the Administrator is to provide a coarse level assessment of management implications using the Framework for Successful Policy Committee/CMER Interaction. The questions that comprise the Framework establish the standard process for assessing a proposal's applicability:

1- Is the proposal intended to inform a key question, resource objective, or performance target from Schedule L-1?

- No, I could not identify any key question, resource objective, or performance target this PI informs.

2- Is the proposal intended to implement projects listed in Schedule L-2?

- No, I could not identify any project in Schedule L-2 that this PI intends to implement.

3- Is the proposal intended to inform the forest practices rules, guidance, or DNR product? Is the specific rule, board manual section, DNR product, or effectiveness of compliance monitoring cited and key language provided correctly? If the proposal is for a new forest practices rule, does it fill a gap? If so, would it fit within the current forest practices structure?

- Yes, the PI intends to inform forest practices guidance and may also affect DNR products as they relate to alternate plans. The relevant guidance include the FPB Manual Section 21 which sets out guidelines for alternate plans.
- The phrase “relatively low impact” doesn’t appear in [WAC 222-12-0403\(5\)](#) as is cited in the proposal. The development of a criteria for evaluating low impact alternate plans, moreover, doesn’t appear to be mandatory – as the proposal contends - for which the rule uses the word “should”. This stands in contrast with the rule requirement to develop a guidance section on alternate plans for which the rule uses the word “will”. With these exceptions, the proposal correctly cites rules on alternate plans and small forest landowners.
- No, the proposal is not for new forest practices rule. Fitness within the current forest practices structure or whether it fills gap in rules both, therefore, can’t be determined.

4- If the proposal includes a completed study, was the study carried out using protocols and standards similar to CMER (i.e., study design, peer review)?

- The proposal is neither for a study nor does it include a completed study. CMER protocols and standards, therefore, don't apply to the PI.

5- What would/does the study tell us?

- The proposal is not for a new study and does not include a completed study.

6- What would/does the study not tell us?

- The proposal is not for a new study. It also doesn't include completed study.

7- What is the relationship between this proposal and any other studies that may be planned, underway, or recently completed?

- This proposal is related to an earlier WFFA proposal titled *Alternate Harvest Prescriptions for Small Forest Landowners in Western Washington (SFL AP template)*. In February 2015, the FPB accepted the SFL AP template proposal and directed the AMP to review and determine if the proposed template meets the requirements of an alternate plan. At their December, 2019 meeting, Policy Committee passed a consensus motion to “Recommend to the Forest Practices Board that the Small Forest Landowner (SF) Alternate Prescription (AP) Template proposal does not meet the criteria for 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.”
- At their August 2020 meeting, the FPB accepted the Policy Committee recommendation and an additional Policy Committee recommendation to 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. Additionally, under what, if any, site-specific conditions a 25-foot buffer would be acceptable as a prescription for Type Np streams. Dispute resolution was invoked based on the findings of this workgroup. Both the informal and formal mediation stages of dispute resolution were completed. The mediator submitted their [final report](#) to the June, 2021 meeting of the Policy Committee.
- The Policy Committee also could not agree on whether the proposal provided adequate scientific justification after five years of work in a Policy Committee workgroup and within the full Policy Committee. In September 2020, Policy Committee requested CMER to review and provide answers to the six questions on the adequacy of WFFA submitted scientific justification. This review remains in CMER.

- In addition to seeking the approval of a definition for “relatively” low impact alternate plan, the proposal is also submitted with the intent to provide additional context and information for the SFL AP template proposal.

8- How much of an incremental gain in understanding would/do the proposal results represent? Explain how the proposal’s results might affect the current rules, numeric targets, performance targets, or resource objectives.

- The PI, as submitted, isn’t a request for a study.

5) Assessment of the Proposal’s Development Track

For each proposal, the Administrator recommends a proposal development track to the Policy Committee based on the nature of the proposal and amount of information provided.

Science track: The science track evaluates currently available science, collects new information through research and monitoring, and synthesizes the best available information into a technical summary for Policy’s consideration. In all cases CMER is responsible for conducting synthesis of research and monitoring information and for producing reports to Policy. Proposals requiring scientific assessment or analysis are to be directed toward the science track.

Policy track: Proposals recommended for Adaptive Management Program development following the policy track are those related to interpretation and implementation of the TFW Agreement or the FFR. Proposals seeking to change or clarify policies or change the way existing science is implemented in the rules are to be directed toward the policy track.

Based on the information provided in the PI and noting that FPB Manual doesn’t necessarily restrict assignment of dual tracks to AMP proposals, I recommend assigning this proposal a:

- Policy track to seek Policy Committee guidance on whether the proposed criteria:
 - is needed or necessary given the existing FPB guidance and evaluative criteria for alternate plans
 - adequately captures statutory intent (RCW) or rule criteria (WAC) for the evaluation of low impact alternate plans

And

- Science track through CMER to prepare technical summary for Policy Committee consideration that clarifies whether :
 - exact metrics are needed to determine the low impact nature of the proposed criteria
 - values beyond the inflection point on the FEMAT (1993) curve – or the point of diminishing return as stated in the PI – are also low impact to biological systems

- values beyond the inflection point on the FEMAT (1993) curve are still necessary or important for maintaining riparian functions
- cumulative effectiveness need to be defined or quantified

6) Next Steps

The AMP Administrator does not recommend the WFFA proposal be accepted as submitted on August 05, 2021. However, if after deliberation Policy should chose to accept the proposal in Stage 1, Stage 2 would begin (FPB Manual Section 22).

Appendix 2: WFFA Proposal Initiation



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August 2, 2021

Forest Practices Board
c/o Department of Natural Resources
Forest Practices Division
PO Box 47012
Olympia WA 98504-7012

(via electronic transmittal to forestpracticesboard@dnr.wa.gov)

Dear Board Members:

The Washington Farm Forestry Association (WFFA) is a membership based non-profit organization that represents approximately 1100 tree farming families that collectively own about 150,000 acres of forest land in Washington State. Our objectives include educating small landowners about improved management of forest land, representing small forest landowners in the legislative process and in the Adaptive Management Program (AMP) through CMER science, and Policy, and educating the public on the contribution of small forest landowners to the environment and rural economies in Washington.

A definition of "Relatively Low Impact" (RLI), as it pertains to alternate plans for small forest landowners (SFLO), is required by WAC 222-12 0403 (5) [Statutory Authority: Chapter 34.05 RCW, RCW 76.09.040, [76.09.]050, [76.09.]370, 76.13.120(9). WSR 01-12-042, § 222-12-0403, filed 5/30/01, effective 7/1/01]. Over the 21 years since the Forests and Fish legislation was passed, the requirement has never been developed. In July 2018, the Small Forest Landowner Advisory Committee (SFLOAC) started working on an acceptable definition to meet the requirements of WAC 222-12 0403 (5). The Advisory Committee consists of seven members, including a representative from the Department of Ecology, the Department of Fish and Wildlife, and a Tribal representative. Four additional committee members are small forestland owners who are appointed by the Commissioner of Public Lands from a list of candidates submitted by the Board of Directors of the Washington Farm Forestry Association or its successor organization.

The SFLOAC delivered a final consensus product on the "definition of relatively low impact" to the Department of Natural Resources (DNR) so that they could update the Board Manual Section 21 Guidelines for Alternate Plans in July 2020. The DNR determined that they would need to develop a proposal initiation to take this consensus document through the AMP. That PI was partially developed by DNR, but they informed the SFLOAC committee on July 20, 2021, that they would not advance the PI due to time and staffing limitations. Rather than allow all that effort on behalf of volunteer SFLO members and representatives from the Department of Ecology, the Department of Fish and Wildlife and the westside Tribes to languish, the WFFA agreed to take the consensus agreement through the PI process with the Forest Practices Board (FPB) and into the AMP.

Accordingly, we promptly approached the Forest Practices Board (FPB) Chair regarding the possibility of including the attached proposal initiation (PI) on the "Definition of Relatively Low Impact" as an agenda item for the August 11, 2021, Forest Practices Board meeting. We were told there simply wasn't room on the agenda. Therefore, as representatives of the small forest landowner caucus of the Adaptive Management Program, we will take the PI directly to AMP Policy table for inclusion on its agenda consistent with the processes that are permitted within that framework. We will however be speaking to

this proposal in the public comment period of your August 11, 2021, meeting. We would be delighted to answer any questions that Board members may have at that time.

As the Board members are aware, the Adaptive Management Program is an integral part of the Forest Practices Habitat Conservation Plan (FP HCP) and the Forest Practices Rules. Adaptive Management is the method agreed on by the stakeholders to examine alternative strategies for meeting measurable biological goals and objectives. (FP HCP at 173; WAC 222-12-045(1)). The Implementation Agreement for the FP HCP requires the stakeholders to use the Adaptive Management Program to determine if and when it is necessary or advisable to adjust rules and guidance to achieve the goals of the Forests & Fish Report. (IA at §10.1; WAC 222-10-045(1)). The Board may also use the Adaptive Management Program to adjust rules and guidance to further the purpose of the Forest Practices Act. (WAC 222-08-160(2)).

The RLI definition is appropriate for review by the Adaptive Management Program because it is integral to guidance in the Board Manual, Section 21 Part 1. As a participating representative for small forest landowners in both the SFLOAC and AMP, WFFA believes the consensus language for the RLI definition reflects a measured, thoughtful approach that will help in many ongoing AMP discussions.

Our objective for moving this proposal through the adaptive management PI process is to gain more insights from additional stakeholders who don't attend SFLOAC meetings, and to ascertain if there are suggestions for appropriate changes (if any) to improve the RLI definition to ensure it meets the Legislative objectives and the Forest Practices HCP. Following completion of the review by Policy and any appropriate revisions to the RLI definition, WFFA anticipates it will be brought back to the Board for review and adoption, based on Policy's recommendation.

Our goal in advancing this PI is to clear up this long outstanding issue and provide additional context and information for our February 2015 Westside Alternate Plan Template proposal that responds to this legislative intent by proposing alternate harvest restrictions for riparian management zones (RMZs) along typed waters within the AMP process. The lack of a clear definition of "relatively low impact" has hindered discussions on the Westside Alternate Plan Template, and this RLI consensus document can be expected to help inform that discussion. Moreover, we are hopeful that the pending process will serve as a testament to the cooperative spirit that led our predecessors to include adaptive management as part of the original TFW and FFR agreements.

We look forward to bringing forth a AMP approved consensus document that defines Relatively Low Impact as required by WAC 222-12-0403 in the near future.

Sincerely,



Elaine Oneil, PhD
Executive Director
Washington Farm Forestry Association

Encl: Attachment 1: Proposal Initiation Document

Attachment 1: Proposal Initiation Document, Washington Farm Forestry Association Request to the Forest Practices Board, August 11, 2021.

The Washington Farm Forestry Association (WFFA) requests the Forest Practice Board incorporate into Board Manual Section 21 – Guidelines for Alternate Plans the following 100% consensus recommendation from the Small Forest Landowner Advisory Committee (SFLOAC) as approved at their July 21, 2020, meeting. **The full and exact text of the SFLOAC consensus document is available in Appendix 1.** In summary,

The Small Forest Landowner Office Advisory Committee (SFLOAC) defined three potential criteria that can be used to define “relatively low impact” alternate plan to the Small Forest Landowner Office as required by WAC 222-12 0403 (5).

- 1) An activity with a short-term impact which produces a better long-term outcome.*
- 2) An activity beyond the point of diminishing returns for resource protection.*
- 3) Smaller harvest units with stream reaches that are relatively smaller in width or shorter in length than typical larger landowner harvests.*

The SFLOAC further reached 100% consensus on the following statement: *“The ongoing engagement of working forest landowners is critical for achieving resource protection objectives. When faced with the disproportionate economic impact of regulations, the risk of land conversion or disengagement by landowners increases, leading to greater and longer lasting impacts than ongoing forest management.”*

This Proposal Initiation (PI) for adopting the consensus definition of Relatively Low Impact (RLI) submits the following information consistent with WAC 222-12-045(2) (d) (i) and the Forest Practices Board Manual.

1. The affected forest practices rule, guidance, or DNR product;
2. The urgency based on scientific uncertainty and resource risk;
3. Any outstanding TFW, FFR, or Policy Committee agreements supporting the proposal;
4. How the results of the proposal could address Adaptive Management Program key questions and resource objectives or other rule, guidance, or DNR product; and
5. Available literature, data and other information supporting the proposal.

The Small Forest Landowner Advisory Committee (SFLOAC) was established in RCW 76.13.110 to assist the Small Forest Landowner Office in developing policy and recommending rules to the Forest Practices Board. The Small Forest Landowner Office has not been able to complete this PI so the Washington Farm Forestry Association is bringing it to you to assist the Department. While this proposal is not coming direct from DNR, we acknowledge and thank the SFL Office Administrator whose original draft language has largely been retained. While DNR is not a member of the SFLOAC, the SFO Administrator and DNR staff were present and helpful in crafting this recommended language in a process that started at the July 2018 meeting. The Advisory Committee consists of seven members, including a representative from the Department of Ecology, the Department of Fish and Wildlife, and a Tribal representative. Four additional committee members are small forestland owners who are appointed by the Commissioner of

Public Lands from a list of candidates submitted by the Board of Directors of the Washington Farm Forestry Association or its successor organization.

1. The affected forest practices rule, guidance, or DNR product.

As stated in WAC 222-12-0402, *“The small forest landowner office was established within the department to be a resource and focal point for small forest landowner concerns and policies. The legislature recognized that the further reduction in harvestable timber owned by small forest landowners would further erode small forest landowners' economic viability and willingness or ability to keep the lands in forestry use, and, therefore, reduced the amount of habitat available for salmon recovery and conservation of other aquatic resources. The legislature directed that office to assist small forest landowners in preparing alternate plans appropriate to small forest landowners. See RCW 76.13.100 and 76.13.110(3).”*

WAC 222-12-0403 states that *“The Dept. of Natural Resources will develop the section for alternate plans (WAC 222-12-090(21)” (Forest Practices Board Manual Section 21: Guidelines For Alternate Plans) “to submit to the board in cooperation with representatives of the small forest landowner office and advisory committee, the departments of ecology and fish and wildlife, United States Fish and Wildlife Service, NOAA Fisheries, and affected Indian tribes.*

The manual should include:

- (1) As required by RCW 76.13.110(3), the small forest landowner office recommendations for alternate plans or alternate harvest restrictions that meet riparian functions while generally requiring less costly regulatory prescriptions;*
- (2) The effectiveness of strategies for meeting resource objectives and protecting public resources;*
- (3) Template prescriptions designed to meet resource objectives to address common situations that are repeatedly addressed in alternate plans or strategies to simplify the development of future plans or strategies, including low impact situations and site-specific physical features;*
- (4) Appropriate recognition or credit for improving the condition of public resources; and*
- (5) Criteria to assist the department in determining whether a small forest landowner alternate plan qualifies as a low impact alternate plan.”***

The Small Forest Landowner Advisory Committee recommendation specifically addresses WAC 222-12-0403 (5) listed above by developing specific criteria to assist the Department of Natural Resources in determining whether a small forest landowner alternate plan qualifies as a low impact alternate plan. As a reminder, a “template” is a form of an alternate plan that is available only to Small Forest Land Owners (SFLOs).

2. The urgency based on scientific uncertainty and resource risk.

In 2003 the Forest Practice Board approved WAC 222-12-0403(5) that required DNR to cooperatively develop “guidelines for alternate plans” that include these criteria. All Forests and Fish stakeholders have struggled over the ensuing years to implement the regulatory deference intended by RCW 76.13.100 (2) in part because of these missing criteria. This consensus recommendation will not eliminate all uncertainty or resource risk but will help all stakeholders better fulfill their Legislative mandates to protect both resources and the SFLO community that provides those resource protections. WFFA believes formally adopting these consensus criteria **may** help other Forests and Fish stakeholders struggling with the WFFA Low Impact Template Proposal you accepted for their review in February 2015.

The Adaptive Management Program is in the middle of a lot of stress, pulling at the fabric of the TFW Spirit. Collectively we need a win sooner than later – a consensus recommendation from multiple stakeholders may be the “easy win” that will help spark consensus on much tougher issues.

The ongoing engagement of working forest landowners is critical for achieving resource protection objectives. When faced with the disproportionate economic impact of regulations, the risk of land conversion or disengagement by landowners increases, leading to greater and longer lasting impacts than ongoing forest management. The proposed criteria to determine whether a small forest landowner alternate plan (or template proposal) qualifies as a low impact alternate plan seeks to help address these disincentives for keeping forestland forested by reducing regulatory complexity and cost to small forest landowners, while still protecting resources at least equal in overall effectiveness as the standard rules and act.

The approval standard for alternate plans tries to provide guidance to all stakeholders attempting to balance the uncertainty, resource risk, **and** the legislative obligations to SFLOs disproportionately impacted. WAC 222-12-0401 (6) states: *“Approval Standard. An alternate plan must provide protection for public resources at least equal in overall effectiveness to the protection provided in the act and rules”. Please note “the act” in this WAC. The RCW regulatory deference to SFLOs is necessarily included in this Board Manual guidance to encourage alternate plan reviewers to attempt to balance all RCW considerations along with resource risks.*

3. Any outstanding TFW, FFR, or Policy Committee agreements supporting the proposal.

The Legislature recognized the value of alternate plans (particularly “templates”) to small forest landowners in the Forest Practices Rules. Low impact alternate plans provide even greater value to small forest landowners for situations warranting greater management flexibility where resource protection can still be met with no, or “relatively low impact on aquatic resources”. These consensus recommendations for relatively low impact criteria still do not provide exact metrics for alternate plan/template approval but do serve to remind reviewers and the Adaptive Management Program of the RCW regulatory mitigation (only for SFLOs) that must additionally be considered when looking at “. . . alternate harvest restrictions on smaller harvest units . . .” (RCW 76.13.100 (2))

Additionally, RCW 76.09.368 states: “The legislature intends that small forest landowners have access to alternate plan processes or alternate harvest restrictions, or both if necessary, that meet the public resource protection standard set forth in RCW 76.09.370(3), but which also lowers the overall cost of regulation to small forestland owners including, but not limited to, timber value forgone, layout costs, and operating costs. The forest practices board shall consult with the Small Forest Landowner Advisory Committee in developing these alternate approaches.”

According to RCW 19.85.030 requirements for the Small Business Economic Impact Statement (SBEIS) that was completed when the Forests and Fish Agreement was adopted by rule, there are identified methods that: *“The agency must consider, without limitation . . . methods for reducing the impact of the proposed rule on small businesses.”* These methods include:

“a) *Reducing, modifying, or eliminating substantive regulatory requirement:*”

The proposed criteria to determine whether a small forest landowner alternate plan qualifies as a low impact alternate plan will help to modify the substantive regulatory requirements outlined in the Forest Practices Rules, thus reducing the economic impact on small forest landowners.

4. How the results of the proposal could address Adaptive Management Program key questions and resource objectives or other rule, guidance, or DNR product.

At a minimum this consensus recommendation responds to WAC 222-12-0403 (5) by fulfilling the 2003 Forest Practice Board mandate to define criteria. Consistent with RCW 76.13.110(3) and WAC 222-12-0403(1), the recommended criteria will help alternate plan/template reviewers identify "alternate harvest restrictions that meet riparian functions while generally requiring less costly regulatory prescription.". All existing Alternate Plan approval processes (WAC 222-12-0401) would remain in effect.

The Section 21 Guidelines for Alternate Plans (below, in part) are available to all forestland owners. The 1st eligibility bullet below for all landowners references site specific **disproportionate impact** situations for all landowners, whereas the disproportionate impacts on SFLOs (generally) referenced above (RCW 19.85.030) require additional mitigations ("*Reducing, modifying, or eliminating substantive regulatory requirement*") - hence the need to further define the criteria for "*relatively low impact*" (RCW 76.13.100) for SFLOs as required by WAC 222-12-0403(5).

Board Manual-8/2013

Alternate Plans

Section 21 Guidelines for Alternate Plans

This section provides guidelines for developing and analyzing alternate plans for activities that vary from specific forest practices rules. Alternate plans may be useful in a variety of situations. Examples could be:

- Where the cumulative impact of rules disproportionately affects a landowner's income production capability.
- Where a landowner's minor on-the-ground modifications could result in significant operational efficiencies.
- Where site conditions have created an economically inaccessible management unit when using the forest practices rules.
- Where local landforms lend themselves to alternate forest management practices.
- Where a landowner proposes methods to facilitate landscape, riparian or stream restoration.

Relatively low impact criteria 1) *An activity with a short-term impact which produces a better long-term outcome* was developed in response to the Section 21 Guidelines for Alternate Plans bullet "Where a landowner proposes methods to facilitate landscape, riparian or stream restoration" as noted above. More detail is provided in the proposed criteria full text (Appendix 1)

Relatively low impact criteria 2) *An activity beyond the point of diminishing returns for resource protection* was developed in response to the Section 21 Guidelines for Alternate Plans bullet "Where the cumulative impact of rules disproportionately affects a landowner's income production capability" as noted above. This consensus recommendation from the SFLO Advisory Committee recognizes the complexity of multiple riparian functionality science relationships between buffer width and cumulative riparian benefit. More detail is provided in the proposed criteria full text (Appendix 1), and in Question #5 below.

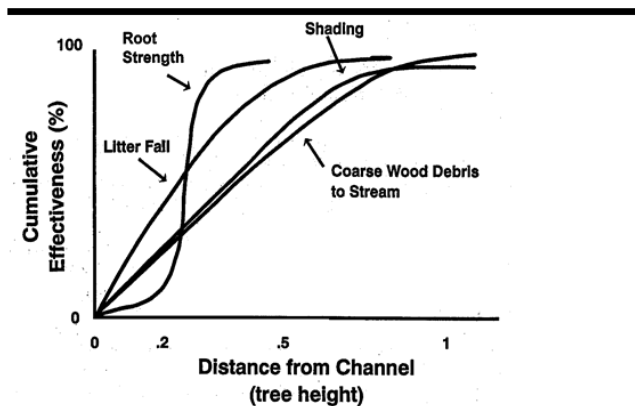
Relatively low impact criteria 3) *Smaller harvest units with stream reaches that are relatively smaller in width or shorter in length than typical larger landowner harvests* in this consensus recommendation from the SFLO Advisory Committee recognizes what the legislature also recognized: the smallness of treatment areas (by SFLOs only) is a meaningful resource risk criterion. This 3rd criterion bullet also includes RCW reference for context. More detail is provided in the proposed criteria full text (Appendix 1).

5. Available literature, data and other information supporting the proposal.

As this proposal states, “relatively low impact is the marginal impact/benefit to riparian function/resources generally found beyond the “point of diminishing returns”. Applied to RMZs, for the purpose of protecting riparian functions, the relationship between cumulative effectiveness of each riparian function and the distance from the stream channel determines that point of diminishing returns related to protection of riparian function and economic impact to the landowner.

Although there are “areas of influence” defined in Section 21 - Alternate Plan Guidance for most functions the SFLO Advisory Committee’s recommendation for “relatively low impact criteria” settled on a more general statement that allows for evolving science and site-specific interpretation by the practitioners/reviewers with the following additional language: Using the FEMAT curve below as an example, the inflection point in determining a relatively low impact occurs where small additional benefit is achieved only with exponentially greater cost per unit of effectiveness (buffer width). Harvesting or other forest management activities outside the RMZ effectiveness inflection point can therefore be classified as relatively low impact.

Figure 4.8 Relationship between cumulative effectiveness of various riparian functions and distance from the stream channel. Distance from channel is expressed as a proportion of tree height. From FEMAT (1993).



Appendix I

Full and exact Small Forest Landowner Advisory Committee consensus language on the definition of “Relatively Low Impact” as approved at the July 2020 meeting is as follows. Caucuses agreeing to this language were: Department of Ecology, Washington Department of Fish and Wildlife, Tribes, Small Forest Landowners.

Small Forest Landowner Office Advisory Committee Recommends the following criteria for defining the term “relatively low impact” to the Small Forest Landowner Office as required by WAC 222-12 0403 (5):

1) An activity with a short-term impact which produces a better long-term outcome.

A “relatively low impact” harvest or forest management activity within a restricted harvest zone (for example, a Riparian Management Zone (RMZ)), is an activity that may temporarily impact aquatic functions/resources, but will expedite the attainment of Desired Future Condition (DFC).

2) An activity beyond the point of diminishing returns for resource protection.

Additionally, “relatively low impact” is the marginal impact/benefit to riparian function/resources generally found beyond the “point of diminishing returns.” Applied to RMZs, for the purpose of protecting riparian functions, the relationship between cumulative effectiveness of each riparian function and the distance from the stream channel determines that point of diminishing returns related to protection of riparian function and economic impact to the landowner. Using the FEMAT curve as an example, the inflection point occurs where small additional benefit is achieved only with exponentially greater cost per unit of effectiveness (buffer width). Harvesting or other forest management activities outside the RMZ effectiveness inflection point can therefore be classified as relatively low impact.

3) Smaller harvest units with stream reaches that are relatively smaller in width or shorter in length than typical larger landowner harvests.

RCW 76.13.100(2) partially states:“The legislature further finds that small forest landowners should have the option of alternate management plans or alternate harvest restrictions on smaller harvest units that may have a relatively low impact on aquatic resources....”

Add to cover letter:

The ongoing engagement of working forest landowners is critical for achieving resource protection objectives. When faced with the disproportionate economic impact of regulations, the risk of land conversion or disengagement by landowners increases, leading to greater and longer lasting impacts than ongoing forest management.

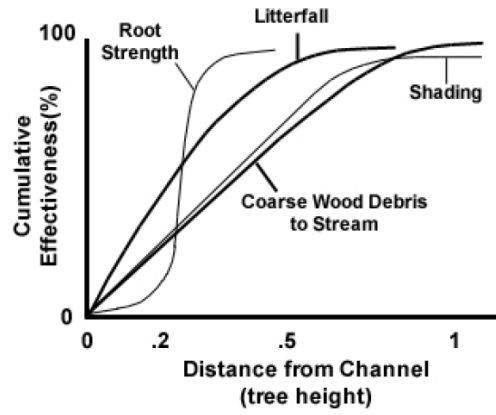


Figure 2. Cumulative effectiveness of various riparian functions. From Forest Ecosystem Management Assessment Team (FEMAT), (1993). *Forest ecosystem management: an ecological, economic, and social assessment*. Washington DC: US Government Printing Office 1993-793-071.