

## **Small Forest Landowner Advisory Committee Meeting**

**June 27, 2012**

**Natural Resources Building**

**Room 263**

Present: Tami Miketa, Michelle Peterschick, Marc Engel, Donelle Mahan, Terry Jackson, Dave Whipple, Tammie Perrault, Ken Miller, Phil Hess, David Overton.

On phone: Maurice Williamson, Jeffrey Thomas

Topic: The topic of today's meeting was to brainstorm ideas on how to address the small forest landowner non-compliance with the 20-acre exempt rule and to help explain DNR's interpretation of the 20-acre exempt rule.

Marc explained that DNR needs the help of the SFLAC to understand why the 20-acre exempt rule is not being implemented correctly per the 2008 Compliance Monitoring Report. Though not a large sample size, the report showed that many SFL have been non-compliant. A total of 28 of 45 landowners monitored were in compliance, giving the compliance rate of 62%. What was proposed on the FPA was often not implemented on the ground. Also – SFLs need to give DNR a 2-day notice before commencing a harvest activity. They are not giving this notice at this time. How can we compel the SFL's to give the 2-day notice to Forest Practices (FP)? How can we make people more aware of the 20-acre rule and how can we get them to give FP a 2-day notice? Maybe they don't know how to implement the 20-acre exempt rule. How do we make them understand the rule? Is it an education issue? Or are they non-compliant on purpose? Is the operator not following the FPA? Is the landowner purposely not following the FPA?

Donelle said that in 2012, the Compliance Monitoring team will put special emphasis on the 20-acre exempt rule and will distribute the sampling across the state.

The SFLAC discussed how this information should be distributed to the small forest landowner community. Are they not reading the entire FPA? Should the committee reach out to SFL and remind them? Should this information go through WFFA? What about non-WFFA members? Maybe the regions should send a message out to all 20-acre exempt activities that the landowner must give a 2-day notice before beginning harvest. When the approval permit comes in to the SFL, have a piece of paper stapled to the permit to say there must be a 2-day notice. Donelle said she would talk with the regions about how to remind SFL about the 2-day notice. Maybe put this information in the SFL News, master logging training, WA Contract Loggers, WSU extension consultant foresters, add it to the Coached Planning Course, and the WFFA newsletter.

David said that this needs to be couched in a way that says – how can I help the SFL from having the operator log more than they are allowed to? Like a consumer protection issue. Also go to county seat and have brochures and flyers about harvesting, the FP rules, and information about DNR. Folks at the county seat will most likely print the forms themselves and put on their wall.

A grant opportunity to make publications on this issue was discussed.

Jeffrey said that maybe we should tackle this at a local level first and see what the problem is. Create a local model that may be implemented at a statewide approach. Jeffrey volunteered the South Sound Region or the Puyallup WRIA to be a pilot project to create a local working model before implementing a statewide system. Compliance monitoring is not occurring at a local level and that's why the 20-acre exempt rule is falling through the cracks

Phil said the 20-acre exempt rule should be broken out in the FPA instructions, and made a special section. That might make it easier to understand.

*Donelle and Marc go through and explain the 20-acre exempt rule*

*Donelle reads the rule WAC 222-30-023 Riparian management zones for exempt 20-acre parcels western Washington line by line.*

### Western Washington

Marc made sure we knew that the WAC numbers are established by the Code Reviser and the order in which the numbers are given are not prioritized as such (i.e., 040 is not a higher priority than 050).

It was decided that this WAC was somewhat confusing and clarification was needed.

Unfortunately, there is no staff at this time to do this so if the rule needs updated, it will take time.

For clarification, The WAC essentially says that if you want to operate within the RMZs you must meet the shade requirement within the maximum width (if less than 75 ft.) and for RMZ maximum widths that are greater than 75ft, you must the shade requirement within the 75 ft. nearest the water. The key word that helps clarify this is the word “within”.

Marc explained WAC 222-30-040(2) *Shade requirements to maintain water temperature* it says “The temperature prediction method mentioned in subsections (2) and (3) (which lists the temperature you are striving for) shall be used to determine appropriate shade levels (you have to use a densitometer to make sure trees present provide adequate shade) along Type S and F Waters to prevent excessive water temperatures, which may have a detrimental impact on

aquatic resources. No tree may be harvested within 75 ft. from the edge of the BFW or outer edge of CMZ (whichever is greater) of any Type S or F Water if, according to the methodology, that tree is providing shade to the stream necessary to the stream necessary to maintain compliance with temperature standards. If a landowner elects to remove any tree within 75 ft. of any Type S or F Water, the landowner must demonstrate, using the methods in the board manual section 1, that the removal of the tree would not be contrary to the restrictions of this subsection.”

To clarify – you can use the table widths for RMZ buffers and if you want to go inside that maximum width RMZ you have to use the temperature prediction method of shade to prove that you are meeting the shade requirement. The only time the shade rule comes into effect is when you want to harvest within the RMZ buffer – regardless of the buffer width. If you have a 115 ft. buffer and you meet shade within 75 ft., you can cut between 75 ft. and 115 ft.? You must follow the leave tree numbers on the chart and mark those trees between 75 ft. and 115 ft.

David asked on the 86 and 115 ft. buffer, we know that 75 ft. meets the shade requirement, what are the criteria we need to meet in order to harvest between 75 ft. and 86/115 ft. There seems to be a different interpretation in what happens between 75 ft. and 86 ft. and between 75 ft. and 115 ft. It would be great if DNR could clarify this and tell us what we can do between these distances.

Marc said there is a reason why 86 ft. and 115 ft. are there, so if we were to only need to meet shade (75 ft.), then you would only need to meet 29 ft., 58 ft., and 75 ft. period. The entire zones still exist – the 86 ft. and 115 ft. have meaning. Need to identify on map. You cannot ignore the 86 ft. or the 115 ft. The landowner must identify the 86 ft. RMZ, and not go in the 75 ft. (because of shade) and assures that the 115 trees per 1000 feet are there. That’s what the landowner needs to show. You first need to identify the width of stream, identify the substrate, and then you address the shade issue (i.e., stay out within 75 ft.), then assure that there are 115 trees per 1,000 ft. That’s what the landowner must do.

Donelle said to look at Question #19 in the Western WA 20-acre exempt FPA instructions – this may clarify that leave trees will be between 75 and 86ft. and between 75ft. and 115 ft.

David said the key is that we do this to help with compliance with this rule. So this should be a recommendation by the SFLAC to help increase compliance.

*Donelle reads the rule WAC 222-30-023 Riparian management zones for exempt 20-acre parcels eastern Washington line by line.*

### Eastern Washington

It was agreed that the eastern Washington portion of the WAC is quite confusing and needs to be clarified.

Marc said that in eastern WA the shade rule (1) and (2) apply and it says to always leave 75 ft. for shade when in the bull trout overlay. In the bull trout overlay all available shade is required within 75 ft.

Tammie talked about the Long-term application process. She would like to do a random sample of landowners who used the LTA and ask about their experience. She would like to know how the process went, how could we make it better. She said that the survey targeted foresters and practitioners but not the individual landowners. She would like to talk with the landowners about the LTA and asked if the SFLAC was comfortable gathering this type of information?

SFLAC all agreed.

Phil said with this information we can hopefully focus our outreach to folks who do not use the LTA. It's a fishing trip. We would like to make the process more user friendly for small forest landowners so they don't have to hire a consultant.

BREAK

### Rivers and Habitat Open Space Program (RHOSP)

Dan discussed the Rivers and Habitat Open Space Program. One of the issues with this program is that there is no funding. The SFLO doesn't have a list since folks don't want to sign up for a program that has no money. It's a hard sell to get attention from the legislature when there is no list of folks interested in the program. Also there is no updated application to add threatened and endangered species habitats. The quality of habitat determines the priority on the list so a lot of information must to be provided by the landowner. When there is no funding for a program, people don't want to take the time to fill out the application. So what Dan has done is create a form called a Notice of Intent to submit an application. It has basic information to show where these areas are located throughout the state and the acreage affected to help estimate the value of the compensation. This program is also for large forest landowners. Right

now there is 16 RHOSP easements throughout the state, 13 are industry and 3 are small forest landowners. Dan already met with WFPA, and the SFLO will be rolling out press releases, and the application is on the website through survey monkey.

David said the Tree Farm is looking at coming up with assistance for SFL to look at conservation to keep working lands working and for compensation for lands that cannot stay working. So at some point it would be nice to see what those opportunities are and the SFLO would be a great conduit.

Marc – Marc asked if David could discuss this further with the SFLO. Every capital program in the state turns in their queues, or lists of project applications needing funding, to the legislature. So when they ask for \$ from the legislature, they can now back it up with actual applications. We need to create a needs list for RHOSP to give the legislature an idea of the need.

Discussion again started about WAC 222-30-023 Riparian management zones for exempt 20-acre parcels eastern Washington.

Marc said this rule mimics the 1998 rules which were in place before Forests and Fish Report. It's actually the 1998 rules plus 15%. That's why the 20' went to 29', 50' went to 58', 80' went to 86' and 100' went to 115'. The 20-acre exempt rule was not part of the F&F Rules. In the Forests and Fish rules the Board agreed that all RMZ rules start from bankfull width. The legislature did not specify the ordinary high watermark for this 20-acre exempt rule.

Phil said he is still trying to figure what the current buffer is under partial cutting and other harvest types. WAC 222-030-023 (2) (i). Given those RMZ definitions for partial cutting and other harvest types, how does the shade rule affect those RMZ widths. Is there a definite line we can draw on the ground and go with it?

Donelle said for partial cuts we are still implementing the densitometer. For partial cutting - the likelihood that you can meet shade below the 58' RMZ width may be slim to none. On eastside it would be very difficult to meet shade within the 58' RMZ.

Phil said we can draw the line on 58' and be free to partial cut the remaining. If you want to go inside 58' that's a different rule we won't discuss today. For other harvest types then the minimum width is 35' with a maximum width of 345'. My question is - if I flag the 58' RMZ buffer and stay out of it, am I free to go?

Donelle said no – you need to meet shade the hard line is 75’ – if you’re harvesting within the 75’ you will be scrutinized.

Next steps:

DNR should find a way to phrase the 20-acre exempt FPA instructions so that they are clear and concise and understandable to the small forest landowner. Unfortunately, there is not the time or the staff to re-write rule so as a “quick fix” DNR will create a document that will help the SFL walkthrough the 20-acre exempt process. A draft should be completed within 3 months for the SFLAC to review

Phil said we will not have another SFLAC meeting until after DNR can complete this document. Of course we will meet sooner if issues arise.

Meeting adjourned