

# Forest Practices Board

## 2.1 Introduction

The Board has been very involved this past year in rule making on the desired future condition of riparian management zones. The Board staff has also held stakeholder meetings for development of the Board Manual chapter related to alternate plans. The Board approved the addition of two sections to Board Manual Section 21, *Guidelines for Alternate Plans*, on September 11, 2007 and May 21, 2008.

## 2.2 Forest Practices Board Overview

The Board sets the standards that are the basis for the Forest Practices program. The state's Forest Practices Act established the Board in 1974 as an independent state agency. It directs the Board to adopt forest practices rules for non-Federal and non-tribal forestlands that protect public resources while maintaining a viable forest products industry.

Public resources include water, fish, wildlife, and capital improvements of the state or its political subdivisions.

The Board consists of twelve members and is staffed by DNR and chaired by the Commissioner of Public Lands (or designee). By law the Board includes five state agency directors (or designees) representing the Department of Natural Resources, Department of Community, Trade and Economic Development, Department of Ecology, Department of Agriculture, and the Department of Fish and Wildlife. The seven remaining members are appointed by the governor, including a forest landowner who actively manages his or her land, an independent logging contractor, and an elected county commissioner or council member. The current membership is:

- Chair Designee, Vicki Christiansen, Executive Director of Regulatory Programs
- Brent Bahrenburg, Department of Community, Trade and Economic Development
- Tom Laurie, Department of Ecology
- Ann Wick, Department of Agriculture
- Bridget Moran, Department of Fish and Wildlife
- Dave Somers, Snohomish County Commissioner
- Doug Stinson, general public member and small forest landowner
- Sherry Fox, general public member and independent logging contractor
- David Hagiwara, general public member
- Carolyn Dobbs, general public member
- Norm Schaaf, general public member
- David Herrera, general public member

In addition to adopting rules, the Board also approves the Board Manual, an advisory technical supplement to the rules. The manual guides field practitioners and DNR regulatory staff when implementing certain rule provisions. The forest practices rules,

together with the Board Manual, largely represent the state's protection measures for public resources.

The Board also directs the Adaptive Management Program (AMP). The AMP provides science-based recommendations and technical information to assist the Board in determining if and when it is necessary or advisable to adjust rules and guidance in order to achieve established goals and objectives. The Board empowers four entities to participate in the AMP:

- 1) Cooperative Monitoring, Evaluation and Research Committee (CMER)
- 2) Forests and Fish Policy
- 3) Adaptive Management Program Administrator
- 4) Scientific Review Committee (SRC)

The CMER committee represents the science component of the program and oversees research and monitoring. Forests and Fish Policy considers CMER committee research and monitoring findings and makes recommendations to the Board related to forest practices rule and/or guidance additions or amendments. Participation in both the CMER committee and Forests and Fish Policy is open to representatives of forest landowners, environmental interests, tribal governments, county governments, and state and Federal agencies. The AMP Administrator is a full-time employee of DNR and is responsible for overseeing the AMP, supporting the CMER committee and reporting to Forests and Fish Policy and the Board. The SRC performs independent peer review of some CMER committee work to determine if it is scientifically sound and technically reliable. The SRC may also review non-CMER work, though it does not do so frequently.

### **2.3 Forest Practices Board Rule Making Activity (July 1, 2007 – June 30, 2008)**

#### **Long-term Applications**

The Board adopted rules at their September 2007 meeting that authorize DNR to grant approval of small forest landowners' FPAs for longer terms than are currently authorized by rule – up to 15 years. The rule also provides for an analysis of all long-term applications and their impact on resources when either a forest practices rule change is in process or a new species is listed as threatened or endangered. The rules became effective in October 2007.

#### **Desired Future Condition**

The Board is considering amending the rules pertaining to the desired future condition (DFC) of streamside or riparian management zones in response to a petition for rule making submitted by Forests and Fish Policy. Under the adaptive management process, a scientific study was completed by the Board's CMER Committee entitled *Validation of the Western Washington Riparian Desired Future Condition (DFC) Performance Targets in the Washington State Forest Practices Rules with Data From Mature, Unmanaged, Conifer-Dominated Riparian Stands* (Schuett-Hames et. al., 2005). The validation

study's findings show that basal area<sup>1</sup> per acre of mature, unmanaged conifer-dominated riparian stands is significantly greater than the basal area targets required in the rule. However, the study did not offer alternative basal area target values. The study also analyzed the difference between basal areas found in the five site classes<sup>2</sup> listed in the rules and concluded that there is no statistical difference for basal areas between site classes.

The Board is considering three alternative rule amendments to WAC 222-30-021(1). The intended effect of all of the alternatives is to increase the basal area retained in riparian management zones.

Rule Proposal #1 uses one value, 325 sq. ft. per acre, for all site classes as the DFC basal area target for harvesting in inner zones. This is the median value of the data shown in the validation study. Otherwise it does not change the management approaches in current rules for thinning in the inner zone.

Rule Proposal #2 increases the target basal area per acre the same as Rule Proposal #1, and it allows landowners who harvest under Option 2 to credit the required minimum inner zone leave trees (in the harvested portion of the inner zone) towards meeting the stand requirement. The proposal also expands the table, "Option 2. Leaving trees closest to water", to add minimum floor widths (i.e., harvest opportunities) for site classes III and IV on streams greater than 10 feet in width.

Rule Proposal #3 increases the target basal area per acre the same as Rule Proposal #1, and it allows landowners who harvest under Option 2 to credit the required minimum inner zone leave trees (in the harvested portion of the inner zone) towards meeting the stand requirement.

The Board will consider rule adoption at its February 2009 meeting, after public hearings in December and January.

### **Upland Wildlife Planning**

The Board, with WDFW, continues to conduct a comprehensive review of the forest practices rules and science for upland wildlife protection and development of cooperative management planning processes. This review and planning process, along with new species listings and the designation of critical habitat may result in future rule proposals.

### **Type N Experimental Buffer Pilot Study**

The Board approved pilot rule making for experimental research treatments that may result in the development of new or modified rules through the adaptive management process.

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<sup>1</sup> Basal area is the area in square feet of a cross section of a tree bole (main trunk). Basal area per acre is the total square feet of all tree bole cross sections in the acre.

<sup>2</sup> Site class is an indicator of how productive a site is for growing timber.

This is a pilot that tests the effectiveness of various riparian management approaches that differ from the current rules in providing riparian functions along non-fish bearing streams in western Washington. In addition to the previously granted pilot RMZ rule, a second pilot even-aged harvest rule is required in order to apply the designated treatment at one site included in this study. This evaluation will be achieved by comparing the effectiveness of the Forests and Fish RMZ to alternative RMZs in maintaining important ecological functions provided by riparian forests. The ecological functions evaluated in this study include large woody debris recruitment, shade, temperature, sediment filtering/bank stability, litter fall and downstream exports (nutrients, litter, and invertebrates). The project will compare the currently required RMZ along non-fish bearing streams to RMZs of greater length (100% of the non-fish bearing stream reach) and lesser length (0% of the non-fish bearing stream reach).

### **Taylor's Checkerspot Butterfly**

The Taylor's checkerspot butterfly was listed as a state endangered species by the Washington Fish and Wildlife Commission, effective March 2006. At the May 2006 Board meeting, the Board determined there is sufficient potential risk to Taylor's checkerspot butterfly from certain forest practices to consider rule-making and other protection strategies. DNR consulted with WDFW experts, forest landowners, and other interested stakeholders including The Nature Conservancy and the Washington Butterfly Association in a series of stakeholder meetings to determine an appropriate protection approach for the species.

At the Board's September 2007 meeting, DNR recommended and the Board adopted a voluntary cooperative protection approach to address the state listing of Taylor's checkerspot butterfly. The adoption recognizes the work DNR and WDFW had done in conjunction with stakeholders, the commitments from many forest landowners to develop management plans, and DNR's ability to protect public resources through conditioning of FPAs. Because of the precarious status of this endangered species and the related need for protection and management assistance from forest landowners, the Board also required DNR and WDFW to report to the Board on the status of development of Taylor's checkerspot butterfly management plans, and any butterfly protection issues associated with individual FPAs. These reports are to occur annually, until the landowners have committed to developing management plans with WDFW. After all management plans are completed, reporting is to occur every five years.

### **Historic Sites**

The Board is considering clarifying language as it relates to historic sites within Class IV-special. The draft rule language is a consensus proposal from the Timber Fish and Wildlife (TFW) Cultural Resources Committee that would amend WAC 222-16-010 and 222-16-050 by removing the historic sites definition, clarifying historic sites as a Class IV-special SEPA trigger (WAC 222-16-050 (1)(f)(ii)) and addressing ambiguities in and inconsistencies between Class IV-special and Class III. The Board will consider rule adoption at its August 2008 meeting.

### **Trees and Houses**

The Board is considering rule making that will allow for harvest of danger trees adjacent to residential home sites. Due to the close proximity of potential hazard trees to residences, landowners often do not perceive these hazard trees as growing on forest land; instead, their emphasis is the removal of trees for personal safety. DNR agrees that trees growing in close proximity to houses are not commercial trees grown to produce a merchantable stand of timber, and are not considered growing on forest land. The forest practices rules do not specifically address the removal of potentially hazardous trees. Any landowner can remove a hazard tree on forest land as a Class I activity or get an applicable forest practices application or notification (Class II, III, or IV) per WAC 222-16-050 and RCW 76.09.050.

The Forest Practices Board has directed staff to develop potential rules to amend any rules necessary to ensure the safety of people and residential developments. The Forest Practices Board staff is developing rule language to exclude trees immediately adjacent to structures from the definition of forest land and commercial tree species. This removes them from DNR jurisdiction under the forest practices rules; puts them under local government jurisdiction; and leaves them under the Department of Labor and Industry's jurisdiction.

### **Board Composition and Miscellaneous Corrections**

The Board will consider at its August 2008 meeting, expedited rule making to implement changes contained in Substitute House Bill 2893 (2008 legislation) which added a thirteenth member to the Board, and changed the criterion for the small forest landowner general public member position. This rule proposal also contains minor corrections to several additional WACs.

### **Conversion Activity**

The Board initiated rule making to amend WAC 222-16 -010 to implement changes contained in Second Substitute Senate Bill 5883 (2007 legislation). The rule proposal adds a definition of "conversion activities" to help field staff recognize activities common to converting land use from forestry to non-forestry. The Board will consider rule adoption at its August 2008 meeting.

## **2.4 Anticipated Forest Practices Board Direction**

The Board will continue ongoing rule making into 2009 on the desired future condition of riparian management zones. Upland wildlife planning with initial emphasis on the conservation of Northern Spotted Owls, and December 2007 storm-related subjects will also be a focus.

## **2.5 Forest Practices Board Manual**

The Board Manual is an advisory technical supplement to the forest practices rules that provides technical background and guidance for DNR staff, forest landowners and cooperating agencies and organizations when implementing certain rule provisions.

The forest practices rules direct DNR to develop Board Manual sections, each of which provides guidance for implementing a specific rule or set of rules. DNR develops and makes modifications to the Board Manual in cooperation with Departments of Fish and Wildlife, Agriculture, Ecology and other affected agencies, affected tribes, and interested parties that have appropriate expertise. The development or modification process typically begins with a working group identifying key elements to be addressed, and progressing to drafting language with DNR in the lead. During this development phase any interested party may comment on a Board Manual draft. A final draft is presented to Forests and Fish Policy for review and approval, after which the Board consideration and approval. Sometimes it may be necessary to present the Board with a final product that represents agreement by a majority of Forests and Fish Policy, rather than by consensus. In these cases, DNR staff informs the Board of the lack of consensus and provides a briefing on the outstanding issues prior to the Board taking action.

### **Forest Practices Board Manual Activity (July 1, 2007 – June 30, 2008)**

DNR worked with the Small Forest Landowner Advisory Committee and representatives of other interested stakeholder groups (large landowners, the conservation caucus, tribes and the federal services) to develop new sections to Board Manual Section 21, Guidelines for Alternate Plans (Washington DNR 2007a). DNR held meetings from January 2007 through June 2007 and from October 2007 through April 2008 to draft two riparian function guidance sections for inclusion in the manual:

- *Riparian Function Considerations*. This section is intended to help landowners identify, restore and maintain riparian function.
- *Alternate Plans for Restoring Riparian Function in Eastern Washington – Identifying Stands at Imminent Risk from Insects, Disease and Fire*. This section is intended to help landowners to expedite the restoration of riparian function to stands that are at imminent risk from insects, disease and fire.

The Board approved these sections at their September 2007 and May 2008 meetings, respectively.

## **2.6 Response to December 2007 Storm**

Beginning on December 1st until December 3rd, 2007 a storm occurred in western Washington that has been described by some as a 500-year storm event. The storm brought heavy precipitation and high winds. The amount of rain received during the storm ranged as high as 19 inches near the Rock Creek drainage in Wahkiakum County and winds gusted to 80 + miles per hour along the coast. According to Greg Sinnett, DNR Chief Meteorologist, western Washington sustained the strongest gale since the great Columbus Day Storm of 1962. The duration of the wind event was unprecedented in Washington. The gale arrived in two surges, with the first triggered by a low pressure system moving into the Olympic Peninsula. The second surge arrived about 12 hours later and was stronger than the first in some areas.

The combination of strong winds and high amounts of rain and rapid snow-melt caused severe damage to thousands of acres of forestland. Other land types were equally affected. Effects to forestland included extensive damage to some forest road systems, numerous landslides, debris slides and slumps, and massive blow-down areas. Heavy rain affected soil stability and resulted in extensive flooding.

The State of Washington responded immediately to the disaster. Governor Gregoire created a task group to coordinate various branches of local government and others to provide relief to those affected by the floods, and to work on recovery and prevention. The group reported on four areas of work: Human services, repairing public systems, financial recovery, and natural resources.

The Departments of Agriculture, Natural Resources, and Fish and Wildlife took steps to help landowners who incurred severe damage from the storm, to assess the impact of the storm, to analyze current processes in place to deal with a similar storm event and to determine what if anything could be done in the future to minimize the effects of a similar storm.

Assisted by the Department of Agriculture, DNR led removal of woody debris deposited by flooding from agricultural fields so crops could be planted in the spring.

The Board devoted the February 13, 2008 Board meeting to the storm. Presentations were made to the Board describing the storm, the affects of the storm on forest land, post-storm geological reconnaissance, and outreach and landowner assistance including expedited processing of Forest Practices Applications, alternate plan considerations and debris clean-up. The Board asked whether current rules had been followed in harvest units that contributed to storm damage, and if they are sufficient to protect against damage in future storms.

The storm caused forest road failures, bridge washouts, landslides, debris slides, slumps and blow-down.

The DNR Geology and Earth Resources Division surveyed and mapped over 1,000 landslides. Most of the landslides were found to be debris flows. Bedrock and shallow soils were key components of the landslides. Of the first 177 landslides inventoried:

- 62 initiated in 0 to 5 year old clearcuts or roads in clearcuts;
- 15 initiated in 5 to 15 year old timber or at roads located within the stand;
- 96 initiated in 15 to 50 year old timber or at roads located within the stand.

DNR's outreach to landowners included assistance in debris removal from agricultural land, working individually with industrial forestland owners and family forestland owners, expediting the processing of storm damage forest practices applications, holding public informational meetings and special education workshops, and providing question and answer information on the web.

The Board decided that follow-up work should be done to help the Board determine if changes are needed to be made to the forest practices rules and/or operational guidance to prevent potential damage to public resources during future storm events. DNR staff delivered a work plan to the Board at the May 2008 Board meeting. The work plan addressed three areas of concentration.

The first was to convene a group of experts to determine the appropriate role for watershed analysis prescriptions in the processing of forest practices applications. The small group would comprise technical experts including the forest practices division science team and other scientists. This group would look at an explicit short list of questions that would answer the following: given the state of science today, are the watershed analysis prescriptions for mass wasting and unstable slopes still effective at reducing landslides and sediment flowing into rivers and streams, or should that portion of the rules be revised or replaced in some way? The results are scheduled to be reported to the Board at the November 2008 meeting.

The second suggestion was to review how applications involving unstable landforms are processed, along with the current rules and guidance on processing those applications. The review would include how often and under what conditions forest practices foresters are requesting geologist expertise, the process and success of office reviews, and the forest practices rule structure and guidance.

The third was to review the adaptive management strategies related to unstable slopes. The review would consider whether the appropriate studies are on CMER's research list and whether they are prioritized correctly.

These three areas are being implemented and the last one has been completed. This review showed that CMER does have the appropriate studies involving unstable slopes on the work plan as well as the correct priorities for the studies.

The other two areas of review, the appropriate role of watershed analysis prescriptions and the review of FPAs involving unstable landforms will be reported at the November 2008 Board meeting. The findings will be included in the 2009 FPHCP Report.