

DETERMINATION OF NONSIGNIFICANCE

Description of proposal:

WAC 222-16-030(3) and WAC 222-16-031(4) currently give an option to landowners to employ default basin sizes for Western and Eastern Washington on Type Np/Type 4 (perennial non-fish) streams. This was provided for landowners who cannot identify the uppermost point of perennial flow with simple, non-technical observations.

A scientific study has been completed under the scientific-based adaptive management process (RCW 76.09.370 and WAC 222-12-045.) The study, *Type N Stream Demarcation Study, Phase I: Pilot Results*, indicates that the default basin sizes available for use in determining stream perennial initiation points are incorrect, i.e., they are too large. Therefore, the Forest Practices Board is considering changes to WACs 222-16-030(3) and 222-16-031(4) that will:

Eliminate the option to use a default basin size.

Reference Forest Practices Board Manual Section 23, which will provide guidance on identifying the uppermost point of perennial flow on non-fish perennial streams. The guidance will include a method to use during the dry season, a method to use during the wet season, and a mapping method for landowners who don't have legal access to the channel head.

If the Board adopts the rule amendments, it will affect landowners who would have used a default basin size to determine the demarcation between non-fish seasonal and non-fish perennial streams.

Proponent:

Washington State Forest Practices Board

Location of proposal, including street address, if any:

As a non-project proposal, the affected geographic area is non-federal, non-tribal forest lands within Washington State.

Lead agency: Forest Practices Board

The lead agency has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21c.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued under 197-11-340(2); the lead agency will not act on this proposal for 14 days from September 13, 2006. Comments must be submitted by September 27, 2006.

Responsible official: Doug Sutherland

Position/Title: Commissioner of Public Lands

Phone: (360) 902-1004

Address: Forest Practices Board
c/o Patricia Anderson, Rules Coordinator
Department of Natural Resources
1111 Washington Street SE
PO Box 47012
Olympia, WA 98504-7000
(360) 902-1400

Date:

9/9/6

Signature:



ENVIRONMENTAL CHECKLIST

Purpose of Checklist:

The State Environmental Policy Act (SEPA), Chapter 43.21 RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

A. BACKGROUND

Name of proposed project, if applicable:

Forest Practices rule proposal: Determining the perennial initiation points of non-fish perennial streams.

2. Name of applicant:

Forest Practices Board

3. Address and phone number of applicant and contact person:

**Forest Practices Board
c/o Patricia Anderson, Rules Coordinator
Department of Natural Resources
1111 Washington Street SE
PO Box 47012
Olympia, WA 98504-7012
(360) 902-1413**

4. Date checklist prepared:

August 2006

5. Agency requesting checklist:

Forest Practices Board

6. Proposed timing or schedule (including phasing, if applicable):

The Forest Practices Board may consider rule adoption at the November 1, 2006 quarterly meeting. If the Board adopts rules in November, the effective date would be in December 2006.

Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

There are no plans for future activity related to this rule proposal.

7. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

The Washington State Cooperative Monitoring, Evaluation, and Research Committee (CMER) has prepared the report, *Type N Stream Demarcation Study, Phase I: Pilot Results (2005)*. See A.11. This is available at <http://www.dnr.wa.gov/forestpractices/adaptivemanagement/> at the link, "PIP Report – Type N Stream Demarcation Pilot Study."

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

The 1999 Forests and Fish Report, Appendix B "Riparian Strategies", contains the riparian prescriptions now contained in the Title 222 WAC Forest Practices. Appendix L "Adaptive Management" describes the process under which those rules may be amended. This proposal amends certain riparian rules (see A.11). (The 1999 Forests and Fish Report is available at <http://www.dnr.wa.gov/forestpractices/adaptivemanagement/> at the link "Forests and Fish Report" in the introductory section.

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

This is a non-project proposal to amend Title 222 WAC, not a site-specific proposal.

10. List any government approvals or permits that will be needed for your proposal, if known.

None.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agency may modify this form to include additional specific information on project description.)

WAC 222-16-030(3) and WAC 222-16-031(4) currently give an option to landowners to employ default basin sizes for Western and Eastern Washington on Type Np/Type 4 (perennial non-fish) streams. This was provided for landowners who cannot identify the uppermost point of perennial flow with simple, non-technical observations.

A scientific study has been completed under the scientific-based adaptive management process (RCW 76.09.370 and WAC 222-12-045.) The study, *Type N Stream Demarcation Study, Phase I: Pilot Results*, indicates that the default basin sizes available for use in determining stream perennial initiation points are incorrect, i.e., they are too large. Therefore, the Forest Practices Board is considering changes to WACs 222-16-030(3) and 222-16-031(4) that will:

- Eliminate the option to use a default basin size.
- Reference Forest Practices Board Manual Section 23, which will provide guidance on identifying the uppermost point of perennial flow on non-fish perennial streams. The guidance will include a method to use during the dry season, a method to use during the wet season, and a mapping method for landowners who don't have legal access to the channel head.

If the Board adopts the rule amendments, it will affect landowners who would have used a default basin size to determine the demarcation between non-fish seasonal and non-fish perennial streams.

12. Location of proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographical map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any applications related to this checklist.

This is not a site-specific proposal. As an amendment to the forest practices rules, the affected geographic area is forest lands subject to the Washington Forest Practices Act.

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountains, other
The proposal is applicable to a wide range of sites with varying topography.

b. What is the steepest slope on the site (approximate percent slope)?
The proposal is applicable to a wide range of sites with varying topography.

c. What general types of soils (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.
Not applicable to this non-project proposal.

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

Not applicable to this non-project proposal. The forest practices rules (Title 222 WAC) have provisions that address the impacts of individual forest practices projects to public resources and public safety.

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

Not applicable to this non-project proposal.

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

Not applicable to this non-project proposal.

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

Not applicable to this non-project proposal.

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

Not applicable to this non-project proposal.

2. Air

- a. What types of emissions to the air would result from this proposal (i.e. dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

Not applicable to this non-project proposal.

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

Does not apply.

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

Does not apply.

3. Water

- a. Surface:

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

This is not a site-specific proposal.

- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

This is an amendment to forest practices rules (Title 222 WAC), not a site-specific proposal. The proposed rule change would discontinue an option that has allowed landowners to use a specified default basin size to determine the demarcation between non-fish seasonal streams and non-fish perennial streams. It would affect allowable timber harvest in riparian management zones adjacent to non-fish streams.

- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of the fill material.

This is not a site-specific proposal. The forest practices rules (Title 222 WAC) have provisions that address fill and dredge. This proposal does not influence those provisions.

- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

This is not a site-specific proposal. The forest practices rules (Title 222 WAC) are designed to protect water quality and riparian habitat if a forest practices application includes a water crossing or if

road construction is proposed near a water body. This proposal does not impact those provisions.

- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.
This is not a site-specific proposal. The proposal applies to a wide range of sites including within 100-year floodplains but does not change the forest practices rules (Title 222 WAC) that govern activities within flood plains.
- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.
The forest practices rules (Title 222 WAC) protect water quality by limiting the placement of forest practices waste materials in, and the delivery of sediment and surface water runoff to, all types of waters. These policies apply to any typed water in amounts or by means that preclude achieving water quality. This proposal does not impact those provisions.

b. Ground:

- 1) Will groundwater be withdrawn, or will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.
Not applicable to this non-project proposal.
- 2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals . . .; agricultural; etc.). Describe the general size of the system, the number such systems, the number of houses to be served (if applicable), or the number animals or humans the system(s) are expected to serve.
Not applicable to this non-project proposal.

c. Water Runoff (including storm water):

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities if known). Where will this water flow? Will this water flow into other waters? If so, describe.
Not applicable to this non-project proposal.
- 2) Could waste material enter ground or surface waters? If so, generally describe.
Not applicable to this non-project proposal.

**d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:
Not applicable to this non-project proposal.**

4. Plants

a. Check or circle types of vegetation found on the site:

- deciduous tree: alder, maple, aspen, other
- evergreen tree: fir, cedar, pine, other
- shrubs
- grass
- pasture
- crop or grain
- wet soil plants: cattail, buttercup, bulrush, skunk cabbage, other
- water plants: water lily, eelgrass, milfoil, other
- other types of vegetation

This is not a site-specific proposal.

b. What kind and amount of vegetation will be removed or altered?

No vegetation will be removed or altered as a result of this proposal.

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

Not applicable to this non-project proposal.

- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:
Not applicable to this non-project proposal.

5. Animals

- a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:
birds: hawk, heron, eagle, songbirds, other:
mammals: deer, bear, elk, beaver, other:
fish: bass, salmon, trout, herring, shellfish, other:
Not applicable to this non-project proposal.

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

- c. Is the site part of a migration route? If so, explain.
Not applicable to this non-project proposal.

- d. Proposed measures to preserve or enhance wildlife, if any:
The intent of this non-project proposal is to preserve or increase water quality in non-fish streams. In general, a goal of the forest practices rules (Title 222 WAC) is to meet aquatic resource objectives for salmon recovery. The Forest Practices Board's adaptive management program is used to determine the effectiveness of the forest practices rules. The inception of this proposal was an adaptive management program petition for rule making (August 2005) to the Forest Practices Board, with the overall intent to obtain water quality protection for fish habitat downstream.

6. Energy and Natural Resources

- a. What kinds of energy (electrical, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.
Not applicable to this non-project proposal.

- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.
Not applicable to this non-project proposal.

- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:
Not applicable to this non-project proposal.

7. Environmental Health

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? If so, describe.
Not applicable to this non-project proposal.

- 1) Describe any emergency services that might be required.
Not applicable to this non-project proposal.

- 2) Propose measures to reduce or control environmental health hazards, if any:
Not applicable to this non-project proposal.

b. Noise

- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?
Not applicable to this non-project proposal.

- 2) What types and levels of noise would be created by or associated with the project on a short-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

Not applicable to this non-project proposal.

- 3) Proposed measures to reduce or control noise impacts, if any:
Not applicable to this non-project proposal.

8. Land and Shoreline Use

- a. What is the current use of the site and adjacent properties?
Not applicable to this non-project proposal.

- b. Has the site been used for agriculture? If so, describe.
Not applicable to this non-project proposal.

- c. Describe any structures on the site.
Not applicable to this non-project proposal.

- d. Will any structures be demolished? if so, what?
Not applicable to this non-project proposal.

- e. What is the current zoning classification of the site?
Not applicable to this non-project proposal.

- f. What is the current comprehensive plan designation of the site?
Not applicable to this non-project proposal.

- g. If applicable, what is the current shoreline master program designation of the site?
Not applicable to this non-project proposal.

- h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.
The forest practices rules (Title 222 WAC) have provisions that address activities that may affect environmentally sensitive areas, e.g., wetlands, fish and non-fish streams and water bodies, steep slopes and unstable soils. This proposal impacts forest practices in riparian management zones along non-fish streams.

Approximately how many people would reside or work in the completed project?
Not applicable to this non-project proposal.

- j. Approximately how many people would the completed project displace?
Not applicable to this non-project proposal.

- k. Proposed measures to avoid or reduce displacement impacts, if any:
Not applicable to this non-project proposal.

Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:
Not applicable to this non-project proposal.

9. Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle or low-income housing.
Not applicable to this proposal.

- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.
Not applicable to this proposal.

- c. Proposed measures to reduce or control housing impacts, if any:
Not applicable to this proposal.

10. Aesthetics
 - a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?
Not applicable to this proposal.
 - b. What views in the immediate vicinity would be altered or obstructed?
Not applicable to this proposal.
 - c. Proposed measures to reduce or control aesthetic impacts, if any:
Not applicable to this proposal.
11. Light and Glare
 - a. What kind of light or glare will the proposal produce? What time of day would it mainly occur?
Not applicable to this proposal.
 - b. Could light or glare from the finished project be a safety hazard or interfere with views?
Not applicable to this proposal.
 - c. What existing off-site sources of light or glare may affect your proposal?
Not applicable to this proposal.
 - d. Proposed measures to reduce or control light and glare impacts, if any:
Not applicable to this proposal.
12. Recreation
 - a. What designated and informal recreation opportunities are in the immediate vicinity?
Not applicable to this non-project proposal.
 - b. Would the proposed project displace any existing recreational uses? If so, describe.
Not applicable to this non-project proposal.
 - c. Proposed measures to reduce or control impacts on recreation, including recreational opportunities to be provided by the project or applicant, if any:
Not applicable to this non-project proposal.
13. Historic and Cultural Preservation
 - a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.
The proposal generally applies to a wide range of sites and does not modify any requirements related to cultural resources.
 - b. Generally describe any landmarks or evidence of historic, archeological, scientific, or cultural importance known to be on or next to the site? If so, generally describe.
Not applicable to this non-project proposal.
 - c. Proposed measures to reduce or control impacts, if any:
The proposal does not modify any requirements related to cultural resources.
14. Transportation
 - a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans if any.
Not applicable to this non-project proposal.
 - b. Is the site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?
Not applicable to this non-project proposal.

- c. How many parking spaces would the completed project have? How many would the project eliminate?
Not applicable to this non-project proposal.
 - d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).
Not applicable to this non-project proposal.
 - e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.
Not applicable to this non-project proposal.
 - f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.
Not applicable to this non-project proposal.
 - g. Proposed measures to reduce or control transportation impacts, if any:
Not applicable to this non-project proposal.
15. Public Services
- a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.
Not applicable to this non-project proposal.
 - b. Proposed measures to reduce or control direct impacts on public services, if any.
Not applicable to this non-project proposal.
16. Utilities
- a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.
Not applicable to this non-project proposal.
 - b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.
Not applicable to this non-project proposal.
- C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: Jed P. Olsen
 Title: Forest Practices Assistant Division Manager
 Date: August 31, 2006

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

(Do not use this sheet for project action)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

The proposal would not affect these conditions.

Proposed measures to avoid or reduce such increases are:

Does not apply.

2. How would the proposal be likely to affect plants, animals, fish or marine life?

The Forest Practices Board's intention with this proposal is to have a positive affect on water quality in non-fish streams to ultimately have a positive effect on fish habitat downstream.

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

The Forest Practices Board proposes to amend WAC 222-16-030(3) and WAC 222-16-031(4). The proposed amendments would discontinue a provision that has allowed a landowner to, when planning timber management in riparian zones along non-fish streams, use a default basin size to determine the point of perennial flow vs. seasonal flow. As a result of an adaptive management scientific study (see A.7.), that default basin size is considered to be too large.

The proposal eliminates the option to use the default basin demarcation method, effectively requiring landowners to identify the point of perennial flow in all forest practices involving non-fish perennial streams. This may decrease the number of trees that may be harvested in riparian management zones of non-fish streams, which will likely have a positive effect on water quality in fish habitat streams.

3. How would the proposal be likely to deplete energy or natural resources?

The proposal is intended to enhance water quality in streams, thereby providing a higher level of aquatic resources protection. There is no likelihood of the proposal depleting an energy resource.

Proposed measures to protect or conserve energy and natural resources are:

See D.2.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designed (or eligible or under study) for governmental protection: such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

The proposal would amend certain forest practices rules (WACs 222-16-030(3) and 222-16-031 (4)) that may lessen the volume of timber allowed to be harvested in riparian management zones adjacent non-fish streams.

Proposed measures to protect such resources or to avoid or reduce impacts are:

Not applicable.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Proposed measures to avoid or reduce shoreline and land use impacts are:

Does not apply to the proposal.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?
Proposed measures to reduce or respond to such demand(s) are:
Does not apply to the proposal.
7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.
The proposal does not conflict with local, state or federal laws.

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1/26/99

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-16-030 Water typing system. Until the fish habitat water type maps described below are adopted by the board, the Interim Water Typing System established in WAC 222-16-031 will continue to be used. The department in cooperation with the departments of fish and wildlife, and ecology, and in consultation with affected Indian tribes will classify streams, lakes and ponds. The department will prepare water type maps showing the location of Type S, F, and N (Np and Ns) Waters within the forested areas of the state. The maps will be based on a multiparameter, field-verified geographic information system (GIS) logistic regression model. The multiparameter model will be designed to identify fish habitat by using geomorphic parameters such as basin size, gradient, elevation and other indicators. The modeling process shall be designed to achieve a level of statistical accuracy of 95% in separating fish habitat streams and nonfish habitat streams. Furthermore, the demarcation of fish and nonfish habitat waters shall be equally likely to over and under estimate the presence of fish habitat. These maps shall be referred to as "fish habitat water typing maps" and shall, when completed, be available for public inspection at region offices of the department.

Fish habitat water type maps will be updated every five years where necessary to better reflect observed, in-field conditions. Except for these periodic revisions of the maps, on-the-ground observations of fish or habitat characteristics will generally not be used to adjust mapped water types. However, if an on-site interdisciplinary team using nonlethal methods identifies fish, or finds that habitat is not accessible due to naturally occurring conditions and no fish reside above the blockage, then the water type will be immediately changed to reflect the findings of the interdisciplinary team. The finding will be documented on a water type update form provided by the department and the fish habitat water type map will be updated as soon as practicable. If a dispute arises concerning a water type the department shall make available informal conferences, as established in WAC 222-46-020 which shall include the departments of fish and wildlife, and ecology, and affected Indian tribes and those contesting the adopted water types.

The waters will be classified using the following criteria:

* (1) **"Type S Water"** means all waters, within their bankfull width, as inventoried as "shorelines of the state" under chapter

90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW including periodically inundated areas of their associated wetlands.

* (2) **"Type F Water"** means segments of natural waters other than Type S Waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, or within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat or are described by one of the following four categories:

(a) Waters, which are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Waters, which are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type F Water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality. The department may allow additional harvest beyond the requirements of Type F Water designation provided the department determines after a landowner-requested on-site assessment by the department of fish and wildlife, department of ecology, the affected tribes and interested parties that:

(i) The management practices proposed by the landowner will adequately protect water quality for the fish hatchery; and

(ii) Such additional harvest meets the requirements of the water type designation that would apply in the absence of the hatchery;

(c) Waters, which are within a federal, state, local, or private campground having more than 10 camping units: Provided, That the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit, trail or other park improvement;

(d) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat shall be identified based on the following criteria:

(i) The site must be connected to a fish habitat stream and accessible during some period of the year; and

(ii) The off-channel water must be accessible to fish.

(3) **"Type Np Water"** means all segments of natural waters

within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are flowing waters that do not go dry any time of a year of normal rainfall (~~However, for the purpose of water typing, Type Np Waters~~) and include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. (~~If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations (see board manual section 23), then Type Np Waters begin at a point along the channel where the contributing basin area is:~~

~~(a) At least 13 acres in the Western Washington coastal zone (which corresponds to the Sitka spruce zone defined in Franklin and Dyrness, 1973);~~

~~(b) At least 52 acres in other locations in Western Washington; or~~

~~(c) At least 300 acres in Eastern Washington.)~~ See board manual section 23 for guidance if the uppermost point of perennial flow cannot be identified with simple, nontechnical observations.

(4) **"Type Ns Water"** means all segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. Ns Waters must be physically connected by an above-ground channel system to Type S, F, or Np Waters.

* (5) For purposes of this section:

(a) "Residential unit" means a home, apartment, residential condominium unit or mobile home, serving as the principal place of residence.

(b) "Camping unit" means an area intended and used for:

(i) Overnight camping or picnicking by the public containing at least a fireplace, picnic table and access to water and sanitary facilities; or

(ii) A permanent home or condominium unit or mobile home not qualifying as a "residential unit" because of part time occupancy.

(c) "Public accommodation facility" means a business establishment open to and licensed to serve the public, such as a restaurant, tavern, motel or hotel.

(d) "Natural waters" only excludes water conveyance systems which are artificially constructed and actively maintained for irrigation.

(e) "Seasonal low flow" and "seasonal low water" mean the conditions of the 7-day, 2-year low water situation, as measured or estimated by accepted hydrologic techniques recognized by the department.

(f) "Channel width and gradient" means a measurement over a

representative section of at least 500 linear feet with at least 10 evenly spaced measurement points along the normal stream channel but excluding unusually wide areas of negligible gradient such as marshy or swampy areas, beaver ponds and impoundments. Channel gradient may be determined utilizing stream profiles plotted from United States geological survey topographic maps (see board manual section 23).

(g) "Intermittent streams" means those segments of streams that normally go dry.

(h) "Fish habitat" means habitat which is used by any fish at any life stage at any time of the year, including potential habitat likely to be used by fish which could be recovered by restoration or management and includes off-channel habitat.

AMENDATORY SECTION (Amending WSR 05-12-119, filed 5/31/05, effective 7/1/05)

WAC 222-16-031 Interim water typing system. Until the fish habitat water type maps mentioned above are available, waters will be classified according to the interim water typing system described below. If a dispute arises concerning a water type, the department shall make available informal conferences, which shall include the departments of fish and wildlife, ecology, and affected Indian tribes and those contesting the adopted water types. These conferences shall be established under procedures established in WAC 222-46-020.

For the purposes of this interim water typing system see the following table:

Water Type Conversion Table

Permanent Water Typing	Interim Water Typing
Type "S"	Type 1 Water
Type "F"	Type 2 and 3 Water
Type "Np"	Type 4 Water
Type "Ns"	Type 5 Water

* (1) **"Type 1 Water"** means all waters, within their ordinary high-water mark, as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW, but not including those waters' associated wetlands as defined in chapter 90.58 RCW.

* (2) **"Type 2 Water"** means segments of natural waters which are not classified as Type 1 Water and have a high fish,

wildlife, or human use. These are segments of natural waters and periodically inundated areas of their associated wetlands, which:

(a) Are diverted for domestic use by more than 100 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and only considered Type 2 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Are diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type 2 Water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality. The department may allow additional harvest beyond the requirements of Type 2 Water designation provided by the department of fish and wildlife, department of ecology, the affected tribes and interested parties that:

(i) The management practices proposed by the landowner will adequately protect water quality for the fish hatchery; and

(ii) Such additional harvest meets the requirements of the water type designation that would apply in the absence of the hatchery;

(c) Are within a federal, state, local or private campground having more than 30 camping units: Provided, That the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit.

(d) Are used by fish for spawning, rearing or migration. Waters having the following characteristics are presumed to have highly significant fish populations:

(i) Stream segments having a defined channel 20 feet or greater within the bankfull width and having a gradient of less than 4 percent.

(ii) Lakes, ponds, or impoundments having a surface area of 1 acre or greater at seasonal low water; or

(e) Are used by fish for off-channel habitat. These areas are critical to the maintenance of optimum survival of fish. This habitat shall be identified based on the following criteria:

(i) The site must be connected to a fish bearing stream and be accessible during some period of the year; and

(ii) The off-channel water must be accessible to fish through a drainage with less than a 5% gradient.

* (3) "Type 3 Water" means segments of natural waters which are not classified as Type 1 or 2 Waters and have a moderate to slight fish, wildlife, or human use. These are segments of natural waters and periodically inundated areas of their associated wetlands which:

(a) Are diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type 3 Water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;

(b) Are used by fish for spawning, rearing or migration. The requirements for determining fish use are described in the board manual section 13. If fish use has not been determined:

(i) Waters having any of the following characteristics are presumed to have fish use:

(A) Stream segments having a defined channel of 2 feet or greater within the bankfull width in Western Washington; or 3 feet or greater in width in Eastern Washington; and having a gradient of 16 percent or less;

(B) Stream segments having a defined channel of 2 feet or greater within the bankfull width in Western Washington; or 3 feet or greater within the bankfull width in Eastern Washington, and having a gradient greater than 16 percent and less than or equal to 20 percent, and having greater than 50 acres in contributing basin size in Western Washington or greater than 175 acres contributing basin size in Eastern Washington, based on hydrographic boundaries;

(C) Ponds or impoundments having a surface area of less than 1 acre at seasonal low water and having an outlet to a fish stream;

(D) Ponds of impoundments having a surface area greater than 0.5 acre at seasonal low water.

(ii) The department shall waive or modify the characteristics in (i) of this subsection where:

(A) Waters have confirmed, long term, naturally occurring water quality parameters incapable of supporting fish;

(B) Snowmelt streams have short flow cycles that do not support successful life history phases of fish. These streams typically have no flow in the winter months and discontinue flow by June 1; or

(C) Sufficient information about a geomorphic region is available to support a departure from the characteristics in (i) of this subsection, as determined in consultation with the department of fish and wildlife, department of ecology, affected tribes and interested parties.

* (4) "Type 4 Water" means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are flowing waters that do not go dry any time of a year of normal rainfall (~~(-~~ However, for the purpose of water typing, Type 4 Waters)) and

include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. (~~If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations (see board manual, section 23), then Type 4 Waters begin at a point along the channel where the contributing basin area is:~~

~~(a) At least 13 acres in the Western Washington coastal zone (which corresponds to the Sitka spruce zone defined in Franklin and Dyrness, 1973);~~

~~(b) At least 52 acres in other locations in Western Washington;~~

~~(c) At least 300 acres in Eastern Washington.)~~ See board manual section 23 for guidance if the uppermost point of perennial flow cannot be identified with simple, nontechnical observations.

* (5) "Type 5 Waters" means all segments of natural waters within the bankfull width of the defined channels that are not Type 1, 2, 3, or 4 Waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of the year and are not located downstream from any stream reach that is a Type 4 Water. Type 5 Waters must be physically connected by an above-ground channel system to Type 1, 2, 3, or 4 Waters.

* (6) For purposes of this section:

(a) "Residential unit" means a home, apartment, residential condominium unit or mobile home, serving as the principal place of residence.

(b) "Camping unit" means an area intended and used for:

(i) Overnight camping or picnicking by the public containing at least a fireplace, picnic table and access to water and sanitary facilities; or

(ii) A permanent home or condominium unit or mobile home not qualifying as a "residential unit" because of part time occupancy.

(c) "Public accommodation facility" means a business establishment open to and licensed to serve the public, such as a restaurant, tavern, motel or hotel.

(d) "Natural waters" only excludes water conveyance systems which are artificially constructed and actively maintained for irrigation.

(e) "Seasonal low flow" and "seasonal low water" mean the conditions of the 7-day, 2-year low water situation, as measured or estimated by accepted hydrologic techniques recognized by the department.

(f) "Channel width and gradient" means a measurement over a representative section of at least 500 linear feet with at least 10 evenly spaced measurement points along the normal stream channel but excluding unusually wide areas of negligible gradient such as marshy or swampy areas, beaver ponds and

impoundments. Channel gradient may be determined utilizing stream profiles plotted from United States geological survey topographic maps. (See board manual section 23.)