

Water Typing System Rule-Making Update

May 8, 2019

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Water Typing System Rule Update

- Water Typing System Rule History
- Draft Rule and Guidance Development
- Spatial analysis
- Preliminary results of CBA/SBEIS
- Draft SEPA



Water Typing System Rule History



History of the Water Typing System Rule

Based on History

1999. Legislature added the Forests and Fish Report to the Forest Practices Act and directed the Forest Practices Board (Board) to adopt rules following the recommendations of the report.

2001. The Board adopted rules consistent with the Forests and Fish Report.

2006. The U.S. Fish and Wildlife Service and NOAA-Fisheries Service granted an Incidental Take Permit for a Habitat Conservation Plan for aquatic species based on the forest practices rules:

- The FFR rule structure pertains to and protects “aquatic resources”.
- The Habitat Conservation Plan and its protections were intended to remain in effect for 50 years, until 2056.



November 2011

The Board passed a motion directing the Policy Committee to make completion of Clean Water Act Assurances milestones the top priority with water typing as the next highest priority. In response, Policy formed a Type F/N Policy subgroup to develop recommendations for determining the Type F/N break in December 2011.

February 2013

Policy reported to the Board that stage 1 dispute resolution was invoked at Policy regarding the organization and issues to resolve by the Type F/N Policy subcommittee. Policy reached consensus to complete a Charter, by the end of June 2013, to initiate the processes to determine the Type F/N Water break and develop recommendations for the transition from the interim water typing rule to a permanent rule.



February 2014

Policy reported to the Board they were unable to find consensus on a water typing system charter after going through stages 1 and 2 of the dispute resolution process. The Board passed a motion directing Policy to:

- Develop “best practices” recommendations regarding protocol survey electrofishing; and evaluate the current rule process to identify off-channel habitat under the interim water typing rule, including recommended clarifications in field implementation guidance, or rule language.

Directing the AMPA to:

- To scope and initiate a pilot project to re-run the existing hydrologic model using LiDAR data, including at least two watersheds; one westside and one eastside. The objectives of this effort are to:
 - Develop quantitative information about the “footprint” of the interim rule, as applied; compare model-based water type designations to on-the-ground FPAs and WTMFs; Investigate additional model utility, such as detection of OCH, ability to predict physicals; and provide information to inform Board choices for “map-as-rule” vs. “guidance map with field adjustments.” (if we are going into this detail – we need to know where these efforts are at)
- The pilots were to be completed by the August, 2014 Board meeting.



May 2014

The Board passed a motion to direct the Adaptive Management Program to prioritize mass wasting work, and complete the Type F assignments by the November 2014 meeting.

August 2015

The Board passed a motion accepting the water typing matrix to complete the evaluation of all components needed to establish a permanent water typing rule. The Board directed Policy to:

- use the existing information;
- develop a method for addressing streams not on the hydro layer;
- make methods as accurate as possible;
- balance error;
- minimize electrofishing;
- improve map over time;
- develop methods to locate the stream break points on the ground; and,
- ensure the methods address small forest landowners.



May 2016

Policy reported to the Board:

- OCH workgroup was convened to implement the technical elements of the Proposal Initiation has been convened.
- Electrofishing workgroup was convened to address technical questions.
- Physicals discussions did not resulted in agreement and a Proposal Initiation has been submitted.

August 2016

The Board accepts the Policy consensus to implement the Physicals Proposal Initiation. The proposal involves a 3 phase approach using a contractor to:

- seek the original data from Tribes, DNR and WDFW;
- to make sure metadata was captured correctly and the summary/history reported on the 1996 defaults is correct; and,
- evaluate how the default physicals are used in the current process.



November 2016 – The Board accepts the Policy consensus Water Typing System rule and board manual guidance recommendations to: maintain elements of the current rule through a blending of the rules in WAC 222-16-030/031; retaining the current definition for wetlands, fish habitat and bankfull width; and the recommendation to develop a fish habitat assessment methodology (FHAM).

The Board directed Policy to determine if consensus could be reached for those elements without consensus by the December 2016 Policy meeting. If consensus could not be reached, the Board directed Policy to end dispute resolution and present a majority/minority report at the May 2017 Board meeting.

Items in dispute within Policy included the:

- Definition of off-channel habitat;
- Acceptance of existing Type F/N breaks as the regulatory break for those approved through the WTMF review process; and the
- Manner in which default physicals will be used to determine the Type F/N breaks.

The Board took action to:

- Approve funding for continued development of the water typing model and evaluation of default physical criteria; and
- Direct staff to file a CR-101 for the Water Typing System rulemaking.



May 2017 – The Board takes action:

- To accept the Policy recommendations resulting from the stage 1 and 2 of dispute resolution process in combination with the November Board accepted Policy rule and board manual guidance recommendations;
- To assume management of the Water Typing System rulemaking; and
- Directing the AMPA to convene an expert panel to provide potential habitat break (PHB) recommendations and to develop a PHB validation study design for presentation to the Board at their August 2017 meeting.

The Policy recommendations included the:

- Resolution of the definition of off-channel habitat;
- Existing WTMF concurred Type F/N breaks will be retained in any new water type rule;
- Default physicals will remain in rule to be used for FPA purposes but not as the regulatory Type F/N break;
- Framework for a fish habitat assessment methodology (FHAM).



August 2017 – The Board received the PHB report from the expert science panel and took action to delay an approval of a PHB option until the February 2018 Board meeting based on additional data was considered in the recommendations.

To accomplish this the Board requested the AMPA to:

- Facilitate the gathering of additional WTMF data in ecosystem regions across Washington;
- Re-run the analysis for PHB's; and
- Develop a PHB validation study design.

February 2018 – The Board received the second PHB report and took action to:

- Accept separate PHB proposals from three caucuses; and
- Include an anadromous fish floor.

Staff began the stakeholder process to draft the Water Typing System rule and board manual guidance and the analysis of different PHB and anadromous fish floor alternatives for the cost/benefit and environmental analysis.



May 2018

The Board takes action to approve the PHB Validation Pilot Study and a timeline to complete the water typing system rulemaking materials for Board consideration at the May, 2019 meeting.

August 2018

The Board passed a motion:

- Directing staff to work with each of the PHB proponents (one time deal) to clarify each alternative, including PHB's as they relate to above and within the anadromous floor; and
- Directing the AMPA to convene the authors of the January 2018 report from the science panel to update the report to reflect all perspectives and supporting science regarding tributaries.

November 2018

The Board takes action to accept the draft Potential Habitat Break Validation Study design and directs CMER to:

- Review and comment on the study design and send comments to the AMPA for consideration; and
- Create an implementation plan that employs a phased approach to include hiring staff and site selection within the 2019 fiscal year.



Draft Water Typing System Rule and Board Manual Guidance



Goals of the Water Typing System Rule

Based on Forests and Fish Report (FFR)

1. FFR has several articulated goals including to:
 - Comply with the Endangered Species Act for aquatic and riparian-dependent species on non-federal forest lands;
 - Restore and maintain riparian habitats on non-federal forest lands to support a harvestable supply of fish;
 - Meet requirements of Clean Water Act for water quality on non-federal forest lands; and
 - Keep the timber industry economically viable in the State of Washington.
2. Provide a science-based adaptive management program (AMP). Changes to the forest practices rules affecting aquatic resources, with limited exceptions, occur through the AMP and must incorporate the best available science and information.



Goals of Current Rulemaking

To adopt a permanent Water Typing System Rule:

- To better address the FFR foundational goal to improve and protect riparian habitat for fish and other aquatic resources;
- To develop a field applied methodology to reliably identify fish habitat in an objective and repeatable manner; and
- To place all essential elements of the field methodology and any key long-standing Board guidance into the rules, where appropriate.



Water Typing System Rule

Description of rule amendments:

- **WAC 222-12-090 Forest practices board manual.**
- **WAC 222-16-031 Interim water typing system.**
- **WAC 222-24-040 Water crossing structures for all typed waters.**
- **WAC 222-16-030 Water typing system.**
- **WAC 222-16-0301 Verification of fish habitat and the Break between Type F and Type N Water.**



Board Manual Guidance

Development of Board Manual Section 23, *Guidelines for Field Protocol to Locate Mapped Division between Stream Types and Perennial Stream Identification* includes:

- **FHAM**
- **Procedures for measuring the three types of PHBs**
- **Protocol electrofishing survey best management practices**
- **Procedures to identify off-channel habitat**



Water Typing System Rule GIS Spatial Analysis



GIS Spatial Analysis

Board direction for analysis:

- Use existing data (WTMF);
- Apply to all eco-regions

Board staff Approach:

- Evaluation based on publicly available Lidar derived DEM;
- Existing data compiled for PHB Pilot study

- **DNR Box:**

<https://deptofnaturalresources.box.com/s/ipylppo9l1fvqqwoe4nvrjfd03skxa9>



Preliminary CBA/SBEIS And SEPA

