

As required by
the Administrative Procedure Act
Chapter 34.05 RCW

**CONCISE EXPLANATORY STATEMENT
AND
RESPONSIVENESS SUMMARY
FOR THE ADOPTION OF
CHAPTER 222-22 WAC Watershed Analysis and the following:
WAC 222-10-030 SEPA Policies for Potentially Unstable Slopes and Landforms,
WAC 222-10-035 Watershed Analysis SEPA Policies,
WAC 222-16-010 General Definitions,
WAC 222-16-050 Classes of Forest Practices, and
WAC 222-20-080 Application and Notification Expiration**

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Introduction

In 2007 and 2009 significant storms in western Washington produced intense precipitation events coinciding with a large number of landslides in particular areas. Some of these landslides occurred on slopes within watersheds with approved watershed analysis mass wasting prescriptions. These storm events prompted concern by the Forest Practices Board (board) about the use and review of watershed analysis prescriptions.

The board's rule proposal is based on recommended rule language from the Forest Practices Adaptive Management Program (AMP). The AMP's recommendation was in response to a request from the board to review the watershed analysis prescription review process. The board's request to AMP was based on consensus recommendations from the board's Watershed Analysis Subcommittee. These documents can be found at http://www.dnr.wa.gov/Publications/bc_fp_materials_20101109.pdf in file number 8.

The proposal is intended to ensure watershed analysis prescriptions continue, to the greatest extent possible over time, to address the potential for adverse effects from forest practices activities on the resources protected under the Forest Practices Act and rules. So the focus of the rule proposal is to address gaps in the current watershed analysis review process by implementing new standards to keep watershed analysis prescriptions current over time. To accomplish this, the proposed rule changes would initiate the following:

- Department of Natural Resources (department) review of approved watershed analysis prescriptions every five years. The purpose of the review is to determine which if any prescriptions need to be reanalyzed.
- Department notification to landowners in the watershed that a reanalysis of the identified prescriptions is necessary.
- Landowner opportunity to reanalyze the prescriptions identified by the department.

- Department authority to classify and condition under standard rules those forest practices applications within the geographic area where a reanalysis is occurring.
- Department authority to rescind the prescriptions that are not reanalyzed. The rescinded prescriptions are then replaced by the standard rules.
- Expiration of existing interim and draft prescriptions upon the effective date of the rule.

Differences Between Proposed and Final Rule

Other than minor edits for clarity, the final rule differs from the proposed rule in the following circumstances. The changes are specific to WAC 222-22-080 (5) and (6) and WAC 222-22-090 (2).

1. SEPA review of a watershed analysis or reanalysis is completed within the 30 day timeframe for approving or disapproving the watershed analysis.
2. Existing interim and draft watershed analysis prescriptions expire upon the effective date of the rule and a new draft watershed analysis or reanalysis expires if SEPA is not completed.
3. Applications and notifications are not conditioned with interim or draft prescriptions.

Comments

The board received comments on its watershed analysis rule proposal from Rayonier Timberlands, West Fork Timber Company, Longview Timberlands LLC, Washington Forest Protection Association, and Hancock Forest Management. All comments were in favor of the rule.

Commenters noted the rules take into account existing habitat conservation agreements that require watershed analysis reviews, provide a long-term regulatory process for reviewing and incorporating changes to prescriptions, and ensure continued protection of resources. Also noted was the collaborative approach utilized in the rule making process.

In addition, West Fork Timber Company verbally commented in favor of the rule at the Board’s May 10, 2011 meeting.

Public Involvement Opportunities and Rule Making Schedule

March 31, 2009	Special Board meeting
October 12, 2009	Board’s Watershed Analysis Subcommittee meeting
October 19, 2009	Watershed Analysis Subcommittee meeting
November 20, 2009	Watershed Analysis Subcommittee meeting
January 8, 2010	Watershed Analysis Subcommittee meeting
January 20, 2010	Watershed Analysis Subcommittee meeting
March 26, 2010	Special Board meeting
May 6, 2010	Stakeholder development of proposed language begins and continues throughout rule making schedule
August 26, 2010	Rule making schedule starts: Preproposal Statement of Inquiry (CR-101) published in the Washington State Register (WSR 10-18-044)

November 11, 2010 Board meeting
Nov 10-Dec 13, 2010 Thirty day review of draft language by counties and Department of Fish and Wildlife (per RCW 76.09.040(2)) and affected Indian tribes
February 8, 2011 Board meeting
February 11, 2011 Proposed Rule Making (CR 102) published in the Washington State Register (WSR 11-05-062)
March 16, 2010 SEPA checklist and determination distributed
March 24, 2011 Public hearing in Ellensburg
March 30, 2011 Public hearing in Olympia
March 31, 2011 Public hearing in Sedro Woolley
April 1, 2011 Due date for public comments
May 10, 2010 Board meeting

Adoption

The Board adopted the rule on May 10, 2011. The rule becomes effective thirty days after filing with the Office of the Code Reviser.