

1 **FOREST PRACTICES BOARD**  
2 **SPECIAL MEETING**

3 March 9, 2001  
4 Ameritel Inn  
5 Lacey, Washington  
6  
7

8 **Members Present:**

9 Pat McElroy, Designee for Commissioner Sutherland, Chair of the Board  
10 Judy Turpin, General Public Member  
11 Keith Johnson, General Public Member/Independent Logging Contractor  
12 Lloyd Anderson, General Public Member/Independent Logging Contractor  
13 John Mankowski, Designee for Director, Dept. of Fish and Wildlife  
14 Steve Wells, Designee for Director, Dept. of Community, Trade and Economic  
15 Development  
16 Dick Wallace, Designee for Director, Dept. of Ecology  
17 Bob Kelly, General Public Member  
18 Lee Faulconer, Designee for Director, Dept. of Agriculture  
19 Fran Abel, General Public Member  
20

21 **Members Absent:**

22 Toby Murray, General Public Member, Dave Somers, Snohomish County Council,  
23

24 **Staff:** Lloyd Handlos, Paddy O'Brien, Patricia Anderson, Shari Kincy  
25

26 **CALL TO ORDER**

27 Pat McElroy called the meeting to order at 9:00 a.m. Introductions were made.  
28

29 **MOTION:** Pat McElroy moved that the FPB direct staff to provide the Department of  
30 Fish and Wildlife, the counties and affected Indian tribes with 30 days to  
31 review and comment on the reasonable use proposal (as modified today).  
32 Further the board directs staff to file a pre-notice of inquiry with the Code  
33 Reviser to notify the public of the Boards intent to consider the rule making  
34 on the reasonable use proposal.

35 **SECONDED:** Dick Wallace  
36

37 **Board Discussion**

38 John Mankowski asked what is the time frame. The first step in the process would take  
39 approximately 45 days to file a proposal. The next steps and the timing depend on how extensive  
40 the comments are. There needs to be a checklist and evaluation of the process. If there is a  
41 determination made it should take about four months or longer.

1 ACTION: Motion passed unanimously.

2

3 **PERMANENT RULE WRITING**

4 Continuing from the February 14<sup>th</sup> meeting Terry Ruff presented the remaining revised rule  
5 package.

6

7 **Chapter 222-08**

8 MOTION: Pat McElroy moved that the Forest Practices Board accept for public  
9 review, the permanent rule proposal in the March 9, 2001 document for  
10 Chapter 222-08 as amended today, and that staff file the rules with the Code  
11 Reviser for publication in the Washington State Register.

12 SECONDED: Dick Wallace

13

14 **Board Discussion**

15 The stakeholders made a change on page 2 to WAC 222-08-035(2). This change was a consensus  
16 of the stakeholders. Paddy O’Brien also recommended a change in the document labeled “Other  
17 Minor Changes” that incorporates the stakeholders’ change..

18

19 ACTION: Motion passed unanimously

20

21 MOTION: Pat McElroy moved to accept the modified version as amended with other  
22 changes proposed by Paddy O’Brien.

23 SECONDED: Dick Wallace

24

25 **Board Discussion**

26 Paddy O’Brien indicated her change was designed to allow use of adaptive management program  
27 for all of the forest practices purposes and not limit its use to public resources. She also added  
28 revised language from the Salmon Recovery Act.. Judy Turpin stated that the additional language  
29 suggests the Board move in the other direction. If this is the additional language from the other  
30 minor changes document the adaptive management program will be used to determine the use of  
31 forest practice rules in aiding the state salmon recovery effort and provide recommendations to the  
32 Board on proposed changes to forest practice rules to meet timber industry viability and salmon  
33 recovery.

34

35 ACTION: Motion passed unanimously

36

1 **Chapter 222-10**

2 **MOTION:** Pat McElroy moved that the Forest Practices Board accept for public  
3 review, the permanent rule proposal in the March 9, 2001 document for  
4 Chapter 222-10 as amended today, and that staff file the rules with the Code  
5 Reviser for publication in the Washington State Register.

6 **SECONDED:** Dick Wallace

7  
8 **Board Discussion**

9 Terry Ruff presented additional changes from the stakeholders group, which included the  
10 following:

11 WAC 222-10-030(5), page 4, line 23 - There were concerns brought forward by several  
12 stakeholders that they were having difficulty finding a geologist with five years of experience in  
13 forest lands.

14 Paddy O’Brien indicated the Boards’ earlier decision to do a separate rule making on the  
15 reasonable use language would mean that WAC 222-10-010 would change back to the February  
16 14<sup>th</sup> version and WAC 222-10-020 should be removed. Paddy O’Brien suggested a new section,  
17 WAC 222-10-125 to reflect a legislative change to SEPA.

18  
19 **MOTION:** Pat McElroy moved to accept the new section 10-125 as presented.

20 **SECONDED:** Dick Wallace

21  
22 **ACTION:** Motion passed unanimously

23  
24 **MOTION:** Pat McElroy moved to adopt the chapter as modified.

25  
26 **ACTION:** Motion passed unanimously

27  
28 **Chapter 222-12**

29 **MOTION:** Pat McElroy moved that the Forest Practices Board accept for public  
30 review, the permanent rule proposal in the March 9, 2001 document for  
31 Chapter 222-12 as amended today, and that staff file the rules with the Code  
32 Reviser for publication in the Washington State Register.

33 **SECONDED:** John Mankowski

34  
35 **Board Discussion**

36 Terry Ruff presented additional stakeholder changes:

1 WAC 222-12-044, page 12 of the colored copy, line 15 - Terry believed that a Board  
2 change from the last meeting, the word “similar” was inadvertently left out. Keith Johnson asked  
3 if the intent in this sentence is to use utilize collaborative efforts such as Timber Fish and Wildlife  
4 or other “groups” or “group”. Dave Price believes that the intent is to be singular.

5  
6 WAC 222-12-045(4), page 13; line 39 the stakeholders struck out “in name” in the Board  
7 manual. On line 45 “landowners” replaced “foresters”.

8  
9 Paddy O’Brien recommended changes to chapter 222-12 on page 2 in her “other minor  
10 changes” document. The references in WAC 222-12-010 are updated to capture the last couple of  
11 years of statutory changes. The changes to WAC 222-12-020 are very minor edits to correct the  
12 chapter titles. The change to WAC 222-12-045, the adaptive management section, is the same  
13 change that was discussed previously and that would be in the colored version page 13, line 3,  
14 which would cross out “public resources” and insert “other rules and guidance”. The proposed  
15 change on WAC 222-12-046 was to correct the reference.

16  
17 **MOTION:** Pat McElroy moved to accept WAC 222-12-010 in accordance with Paddy  
18 O’Brien’s changes.

19 **SECONDED:** Dick Wallace.

20  
21 **ACTION:** Motion passed unanimously

22  
23 **MOTION:** Pat McElroy moved to accept WAC 222-12-020 in accordance with  
24 Paddy’s changes.

25 **SECONDED:** Dick Wallace

26  
27 **Board Discussion**

28 Pat McElroy clarified that this was updated to place it in order as the rules are currently organized.

29  
30 **ACTION:** Motion passed unanimously

31  
32 **MOTION:** Pat moved that the Forest Practices Board accept the changes presented for  
33 WAC 12-045.

34 **SECONDED:** Keith Johnson

35  
36 **Board Discussion**

1 Pat McElroy wanted to clarify with Paddy O'Brien that this will provide the Board with a broader  
2 opportunity to adjust other rules not just those related to public resources. Paddy O'Brien agreed.  
3 Judy Turpin asked if the Board could use adaptive management for that and Pat McElroy agreed.  
4

5 **ACTION:** Motion passed unanimously.  
6

7 **MOTION:** Pat McElroy moved that the Forest Practices Board accept the changes  
8 presented for WAC 222-12-046.

9 **SECONDED:** Dick Wallace  
10

### 11 **Board Discussion**

12 Pat McElroy clarified that the correction was an incorrect reference.  
13

14 **ACTION:** Motion passed unanimously.  
15

### 16 **WAC 222-12-041 Exemption for HCPs**

17 **MOTION:** Pat McElroy moved that the Forest Practices Board accept the permanent  
18 rule proposal from Paddy O'Brien for WAC 222-12-041.

19 **SECONDED:** Dick Wallace  
20

### 21 **Board Discussion**

22 Terry Ruff presented the new draft language that was completed by Dick Wallace, Jeff Van Duzer  
23 and Paddy O'Brien. Terry thanked Paddy, Dick and Jeff for all their time and effort in getting this  
24 done. Terry believes that this version works better, is more understandable and is much clearer.  
25

26 Paddy O'Brien reviewed the new language with the Board. The first piece is the use of approved  
27 state and federal conservation agreements for aquatic resources and that is the language that is in  
28 WAC 222-12-041. The second piece would be a change to the Class IV special trigger in WAC  
29 222-16-050 to allow a specific exemption and the third piece is that specific exemption for that  
30 Class IV special trigger in WAC 222-16-051. There are three big issues in WAC 222-12-041.  
31 The first is in subsection (1) that talks about forest practices that are consistent with one of the  
32 agreements. The criteria in (a) focuses on whether the rules themselves pertain to the species  
33 included in aquatic resources. Subsection (b) requires that the primary risk to public resources  
34 addressed by the rule be addressed by the agreement. The philosophy recognizes that forest  
35 practices rules sometimes address more than one issue. It is not enough to say that it simply  
36 addresses aquatic resources, there would have to be an evaluation of whether the primary risks that

1 the rule addresses is also addressed in the HCP. The phrase “primary risk” is designed to capture  
2 the subject matter of the rule.

3  
4 John Mankowski clarified that (1)(a) would exempt the landowner from only those rules that  
5 pertain to the species that is covered in the agreement. Paddy O’Brien agreed and noted that there  
6 are two steps to the exemption process: the first is that the species within aquatic resources is  
7 covered by an agreement and the second is the evaluation of the primary risk of the rule to make  
8 sure it doesn’t do something other than deal with aquatic resources.

9  
10 Paddy indicated (2) addresses the second big issue, the process. Keith Johnson asked if there are  
11 procedures for seeking out other interested parties or is that a responsibility of DNR to seek out  
12 the other parties. Dick Wallace said that the idea is that its up to the department as well as the  
13 landowner to confer in good faith with other interested parties, obviously the landowner is a very  
14 interested party but the good faith is other people than the landowner. Keith Johnson questioned  
15 whether other interested parties would even know that an issue was at hand unless there is some  
16 mechanism to bring it to there attention. Dick Wallace said that was not even included in the rules  
17 but one of the things that has been talked about is that there would be an opportunity to look at the  
18 entire HCP as well as the rule package, look at which specific rules are going to happen, the steps  
19 that are contained in here could technically occur at every forest practice application but there is a  
20 real benefit for everybody to have an up front meeting and cover all the HCP and the forest  
21 practices specific rules in one session.

22  
23 Judy Turpin asked if during the conferring phase being triggered by the department if another  
24 party had an interest they would need to go to the department. Paddy said that was correct. Pat  
25 McElroy clarified that the only way a landowner gets to this point is to have an application, and  
26 that application process already has a notification out to interested parties.

27  
28 Paddy indicated the other major issue is in (3), the relationship to NEPA/SEPA and public review.  
29 It was agreed that there needed to be an environmental review with an opportunity for public  
30 comment and that could happen under NEPA/SEPA or under the ESA. Certain types of decisions  
31 under the ESA have a mandated public comment period, even though they may be exempt from  
32 NEPA. There was another change to (3)(d) to specifically mention the candidate conservation  
33 agreement.

34  
35 John Mankowski asked if under NEPA there is an opportunity for the public to comment on any of  
36 these plans while they are going on, which is really what the Board is after or is the public

1 comment process that somebody study the federal register and find it in the register and then  
2 submit a comment. Paddy said that the ESA process is a publication in the federal register. John  
3 said so in order for the public to meaningfully comment on those types of items they would have  
4 to be studying the federal register. Paddy responded by saying they could request the services that  
5 they be notified of certain types of filings.

6  
7 Paddy stated that one of the issues being dealt with was the debate over “in compliance with” or  
8 “reviewed under”. The significance of that debate is that some of the smaller types of agreements  
9 are actually exempt from NEPA and the irony was those that would not have been reviewed under  
10 NEPA and would not have qualified.

11  
12 John Mankowski had a question regarding the July 1, 2001 date after which landowners must  
13 make a good faith involvement to involve WDFW, Ecology, and the tribes. Paddy responded by  
14 saying that this language focused on the Forest and Fish Report and she chose the formal  
15 application date after July 1 because looking at the language in FFR that was the cut off point.  
16 Dick Wallace stated that Paddy was correct, if the landowner triggers the application after July 1  
17 they need to make a good faith effort to involve all parties, so if they haven’t to date they need to  
18 do that to comply. Paddy said if the landowner has a formal application date before July 1 then it  
19 does not apply.

20  
21 Paddy O’Brien stated that the exemption from a Class IV special in WAC 222-16-050 and 051  
22 was very difficult to work through. The emergency rules provided an exemption for Class IV  
23 special only for critical habitat and but the Forest and Fish Report was clear that the intent was  
24 broader to include the other triggers as well. They tried to craft the language to focus on the  
25 potential impact on aquatic resources.

26  
27 John Mankowski asked whether the language in WAC 222-12-041(3) on lines 46-49 should be  
28 broader. If landowners get an agreement with the federal agency they are exempt from state law  
29 and that raises a states rights issues. Provided that they consult with WDFW, Ecology or the tribes  
30 and seek their concurrence that could be fine. DNR is not mentioned as one of the agencies that  
31 they should consult with and John feels essentially what they are doing is negotiating with the  
32 federal agency and getting a waiver of certain forest practice regulations. John raised the question  
33 for discussion as to whether or not DNR should also be involved in those agreements. Paddy said  
34 that the wording came from the agreement and it is up to the Board to do what they feel is best.  
35 Dick Wallace said that as he recalls there was no intent to exclude DNR and in fact Dick feels it  
36 would be a good suggestion since they are an important part to include them in the language.

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**MOTION:** Pat McElroy made a motion to amend the draft revision presented by Paddy by inserting the Department of Natural Resources in this section between lines 46 – 49.

**SECONDED:** Dick Wallace

**ACTION:** Motion passed unanimously.

**Board Discussion**

Steve Wells had a question regarding WAC 222-16-051, line 12 on page 2. It refers to addresses “the risk” to aquatic resources addressed in the subsection, earlier the Board talked about the “primary risks.” Steve wants to know if there is a problem with the different terminology. Paddy said that it was intentional because it is used as a trigger here. She felt that for purposes of determining whether SEPA review is required, this should talk about the risks to aquatic resources, regardless of whether they are primary or secondary.

**ACTION:** Motion accepting the revised proposal for HCPs passed unanimously.

Dick Wallace wanted to thank Paddy and Jeff for the hard work that went into this document.

**WAC 222-12-040 through –0405, Alternate Plans.**

Terry Ruff continued with Chapter 12 by presenting the new draft language for alternate plans starting with WAC 222-12-0401 on page 10 of the March 9<sup>th</sup> version. Paddy O’Brien worked with the Small Forest Landowner Office Advisory Committee on this. Before there were two sets of alternate plans, one for the small landowner and one for the large landowner. The draft was revised to address concerns about consistency with the Boards’ authority and to reduce duplication.

Since this was new language for the Board John Mankowski asked that the stakeholders walk the Board through it.

Peter Heide stated that there is one line in Forest and Fish that was left out WAC 222-12-040(1). The line in Forest and Fish read “Alternate plan process can also be used as a tool to deal with situations where cumulative impact regulation disproportionately impacts a landowner”. Peter believes that line was left out of this paragraph in the draft and the stakeholders had agreed to include that line. Paddy said that it was intentional on her part because she was concerned that it



1 could be misleading. The ultimate standard for an alternate plan is whether it meets the overall  
2 effectiveness of the rule and simply because there may be a lot of rules that apply to this does not  
3 mean it meets that standard. It was Paddy's concern that it might be misinterpreted. With that  
4 understanding if people feel that that is an important concept to recognize then she would not  
5 object as long as you recognize the standard for an alternate plan.

6  
7 John Mankowski believes that the comment speaks more about the multiple goals of multiple  
8 plans and was not meant to be a standard by which they are approved or denied. John would not  
9 be opposed to putting that statement in the goals section or the introductory portion of alternate  
10 plans but he does agree with Paddy in terms of not confusing or diluting the standard by which  
11 alternate plans will be approved or conditioned. Dick Wallace said that when he looks at WAC  
12 222-12-040(1) on line 6 where it says "in all cases" it goes on to say, "provide at least equal  
13 protection". Paddy says as long as you understand the ultimate standard she has no problem  
14 putting it back in. Keith Johnson asked the question what would the Board gain by putting that  
15 line back in? Peter Heide answered by saying that you gain consistency with Forest and Fish.  
16 Keith Johnson agrees with Paddy that it sounds more diversionary then consistent.

17  
18 Sheri Fox added that she would object to that being taken out of there, the cumulative impacts are  
19 particularly important to small forest landowners as they document small parcels around the state  
20 and what those impacts are on resources and so disproportionately impact has been some verbiage  
21 that has been used several times within small forest landowners discussions and the fact that the  
22 small landowners feel very strongly that they have been disproportionately impacted by these  
23 rules, with that she would argue that this is a policy statement and it is not rule it is only to give  
24 direction to the department to acknowledge these particular issues with landowners whether they  
25 be large or small.

26  
27 **MOTION:** Pat moved that the Forest Practices Board accept for public review, the  
28 revised permanent rule proposal for alternate plans submitted by Paddy  
29 O'Brien for WAC 222-12-040 through WAC 222-12-0405.

30 **SECONDED:** Steve Wells

31  
32 **Board Discussion**

33 Keith Johnson asked to hear the omitted language again. Dick Wallace spoke in favor of the  
34 amendment to the revised proposal as he thinks "in all cases" makes it clear but maybe as training  
35 could be provided. John Mankowski asked how would the DNR interpret that if a landowner  
36 pointed to that part of the WAC and said "look I have a number of stream crossings here, I have a

1 spotted owl circle and this and this and this, I have cumulative impact regulations therefore I want  
2 the alternate plan approved which waives my requirement to protect resources”. Pat McElroy said  
3 that the department would be in the position of having to point out to the landowner that there is a  
4 single standard to which that is held and they would also direct the applicant to the small  
5 landowner office which is charged with the responsibility to assist that landowner in developing a  
6 plan that would meet the requirements of that single standard. Judy Turpin asked if the sentence  
7 would apply to all landowners. Pat McElroy said yes.

8  
9 John asked Mr. Heide where would he put that language. Pete Heide said that it would be inserted  
10 after the word “efficiency” on line 4. John suggested the language be inserted at the end of the  
11 first sentence it is up in the policy section and steers clear of the criteria of which they will be  
12 judged. John stated that it would read something like “the alternate plan process could be used as  
13 a tool to deal with a variety of situations” then insert “including those where landowners are  
14 disproportionately affected or have cumulative impacts or multiple regulations.” Pat asked that  
15 staff write up this language.

16 Lloyd Anderson commented that since the stakeholders agreed essentially to send the Forest and  
17 Fish language forward he was wondering if they were comfortable with what the Board just did.  
18 Paddy stated that given the discussion she was comfortable that the standard was clear.

19  
20 Paddy O’Brien explained why she was recommending changes to the last proposal that came to  
21 the Board. She thought that the prior proposal was not clear on the standard for an alternate plan  
22 and the legislature was clear on what the standard was in RCW 76.09.370. There was some  
23 confusion on how to incorporate a concept in RCW 76.13, which is a chapter on forest  
24 stewardship that talked about the Small Forest Landowner Office providing assistance to small  
25 landowners into the forest practices rule. The third legal issue was the prior proposal had the  
26 Forest Practices Board providing mandatory direction to the Small Forest Landowner Office and  
27 Paddy does not believe the Board has that authority. The Board’s has authority to adopt forest  
28 practices rules and to provide direction to the department in the implementation and development  
29 of the rules but it does not have any authority over the stewardship program. The fourth problem  
30 that Paddy saw dealt with duplication, inconsistencies, and organization. It was in two different  
31 chapters, eight different sections. What Paddy did was move them all into chapter 12. It has one  
32 policy section and one section on the process of alternate plans adding language where there were  
33 differences for small forest landowners. There is a section about the assistance that the Small  
34 Forest Landowner Office may be providing to small forest landowners but it is not mandatory  
35 language. Then there is a section on how the Board manual for alternate plans is to be developed.  
36 There was actually very little change for the process for an alternate plan. Now you can see where

1 there are deviations in that process for small forest landowners and they have to do with an ID  
2 team and whether a site visit is required.

3  
4 Sheri Fox presented a statement for the Boards information that comes from Pete Overton. “We  
5 have all worked very hard in conjunction with the department to ensure that the concepts were not  
6 taken away that we felt very important about and the department and Paddy were very good in  
7 working with our attorneys and making sure that we had an agreement to come forward that would  
8 work for the small landowner.”

9  
10 Allen Pleus wanted to comment that this is one of those issues that have been changing radically  
11 and often and it is hard to follow. In the new version the tribes have looked at it and there were a  
12 couple of areas, one was a significant disagreement that the language has changed in an  
13 inappropriate way and the other was simply adding a word. In the packet that Allen Pleus handed  
14 out on tribal caucus issues #2 under alternate plan issues it talks about these things and  
15 recommended amendments to the language. They are talking specifically about WAC 222-12-  
16 0401(4) on page 10 regarding interdisciplinary teams. Interdisciplinary teams have been a high  
17 contention that the tribes have been talking about with small forest landowners and the tribes  
18 thought that there had been an agreement on this, but this language changes what the tribes had  
19 thought they had agreed to so the tribes recommendation is to strike out everything in subsection  
20 (a) after the first sentence. This rationale is that the teams have to be assembled upon the receipt  
21 of an FPA alternate plan. As the language reads now upon receipt with the small forest  
22 landowners low impact plans an ID team will only be called if the stakeholders decide they want  
23 one. Allen Pleus stated that is a time saving process that the tribes thought the small forest  
24 landowners had agreed to. Allen Pleus asked if he could have some one who has been following  
25 this could come and speak to the Board, the Board agreed.

26  
27 Dawn Pucci with the Suquamish Tribe addressed the Board. If you submit a plan and wait for an  
28 ID team from that point you could be looking at an extended waiting period. The tribes have had a  
29 history of not being notified about these FPA’s and the tribes are not getting the opportunity to call  
30 an ID team, there is not enough time. Terry Ruff said that the way it is supposed to work  
31 especially with the new alternate plans and Forest and Fish is that the department would talk to  
32 stakeholders and get their input on whether they thought there needed to be an ID team. Pat  
33 McElroy said he would be troubled putting something into rule simply because someone is not  
34 performing, doing what they are supposed to be doing. Pat thinks there is an alternate way to deal  
35 with the issue. If that is the issue that DNR is failing to do a notification on changing a rule here is  
36 not going to change that.

1  
2 Judy Turpin wanted to go back and look at WAC 222-12-0401(5)(b). Judy felt that the problem  
3 with timing is just simply making certain that there is time to get the ID team together if one is  
4 needed. Subsection (b) now reads “the interdisciplinary team may submit a recommendation  
5 without a site visit if a small forest landowner under WAC 222-21-010 (11) submitted an alternate  
6 plan using a template.” Judy suggested this section be revised so an ID team can decided not to  
7 have a site visit with either a template or a low impact alternate plan.

8  
9 Pat McElroy thinks that the Board would be better served if this was moved forward for public  
10 review and comment and has this conversation occur during that process. Judy Turpin wanted to  
11 know if the Board would need to draft options. Paddy stated that the discussion today led to  
12 Option 1 would be to leave WAC 222-12-0401 as it is and Option 2 would eliminate everything  
13 after interdisciplinary team in WAC 222-12-0401(4) on line 50 and then add a change to WAC  
14 222-12-0401(5) (b) to include low impact plans. Sheri Fox said that there is an Option 3 and that  
15 is the tribal issue of the time zone, the tribes don’t have an issue with the context just the fact that  
16 the notification process has not happened in a timely fashion. Dawn Pucci said that the time issue  
17 is only part of it the other part is consistency with Forest and Fish.

18

19 **MOTION:** Bob Kelly moved that the Board take the first two options forward for  
20 public comment.

21 **SECONDED:** Judy Turpin

22

23 **Board Discussion**

24 John Mankowski supports having a second option as there is not a huge policy discrepancy  
25 between what he is hearing and assuring the tribes of adequate time to respond and participate.

26

27 **ACTION:** Motion passed unanimously

28

29 **MOTION:** Pat McElroy moved that the Board modify the March 9, 2001 draft to  
30 conform to the written language on top of page 10 on the sheet that was  
31 handed out to the Board where it modifies beginning on line 2 that  
32 particular subsection of 12.

33 **SECONDED:** Lee Faulconer

34

35 **ACTION:** Motion passed unanimously.

36

1 Pat McElroy wanted to discuss the Option 1 and Option 2. Paddy O'Brien said that from the very  
2 brief discussions that she had she thinks the recommendation is that instead of having option 1 and  
3 option 2 that there was agreement to change the proposal. WAC 222-12-0401(4) on line 50, page  
4 10 that subsection (a) would end after "appointed an interdisciplinary team". Then on page 11,  
5 WAC 222-12-0401(5)(b), line 20 insert "or is a low impact alternate plan". Then at the end of the  
6 sentence add "or low impact alternate plan".

7

8 **MOTION:** Pat McElroy moved for the above change.

9 **SECONDED:** Lloyd Anderson

10

11 **ACTION:** Motion passed unanimously

12

13 **MOTION:** Bob Kelly moved that in WAC 222-12-0401(5) (a) on page 11, line 13 at  
14 the beginning of the sentence "of an" that the word "any" before affected  
15 Indian tribes.

16 **SECONDED:** John Mankowski

17

### 18 **Board Discussion**

19 Pat McElroy wanted to know what the difference was between an or any. Bob Kelly said that in  
20 his base of reference there are two affected Indian tribes. Allen Pleus said that in any given  
21 situation in an area may have eight so you would not want to limit it to just one.

22

23 Steve Wells said that the Board has talked about how the department will operationalize these  
24 concepts and the rationale provided by the tribes in their March 8<sup>th</sup> memo refers specifically to  
25 those situations where there are overlapping UNA resource area and Steve recommends that be the  
26 guideline the department uses to operationalize this concept of what is an affected tribe.

27

28 **ACTION:** Motion passed unanimously.

29 **MOTION:** Pat McElroy called for the vote on the motion to adopt the chapter as  
30 modified.

31

32 **ACTION:** Motion passed unanimously

33 Dick Wallace thanked Paddy, the stakeholders, and particularly the small forest landowners for all  
34 their hard work.

35

36

1 **Chapter 222-16**

2 **MOTION:** Pat McElroy moved that the Forest Practices Board accept for public  
3 review, the permanent rule proposal in the March 9, 2001 document for  
4 Chapter 222-16 as amended today, and that staff file the rules with the Code  
5 Reviser for publication in the Washington State Register.

6 **SECONDED:** Lloyd Anderson

7  
8 **Board Discussion**

9 Terry Ruff listed the following changes. WAC 222-16-010, page 22, this is a simple change it in  
10 the definition of diameter breast height the stakeholders added a tribal comment “measured from  
11 the uphill side”. WAC 222-16-010, page 24, lines 43 – 47 option 1 is to not have a definition of  
12 fish passage. Option 2 is a definition for fish passage. Allen Pleus stated that in the packet he  
13 handed out to the Board the tribes put their rationale for supporting option 2. Peter Heide would  
14 make the argument that the proposed definition does not follow Forest and Fish. He indicated  
15 Allen is correct that Forest and Fish says that the objective would be to provide fish passages for  
16 fish at all life stages. A WEC comment that the Board may be considering later would place that  
17 statement into the policy section of the rules which the stakeholders would not object to because it  
18 is right out of Forest and Fish. However, the WEC proposal has other elements and although these  
19 are all good biological concepts to think about there is no place in Forest and Fish that defines fish  
20 passage in those terms. Mr. Heide argued that fish passage, what constitutes fish passage, and  
21 what is required to do construction in and around waters is part of the hydraulics code, which is  
22 established by the Fish and Wildlife Commission and administered by Department of Fish and  
23 Wildlife. All through Forest and Fish the stakeholders deferred decisions on water crossing to the  
24 hydraulics code. Mr. Heide thinks that putting a definition here would create a different standard  
25 in Forest Practices Rules than is applied in hydraulics code rule which then puts the forest  
26 managers under a different standard than the other sectors of the economy. Mr. Heide also thinks  
27 that it is not appropriate for the Forest Practices Board to be setting those standards; the Wildlife  
28 Commission under their authority should establish those standards. Mr. Heide would also argue  
29 that the Board should modify the policy statement in the roads section to match what it says in  
30 Forest and Fish regarding passage of fish in all life stages but that there should not be a definition  
31 of fish passage in the rules.

32  
33 John Mankowski said that he thinks the statement that was made is correct, the WDFW does have  
34 the responsibility statewide for studying passage standards through the hydraulics code and one of  
35 the things that was agreed to in Forest and Fish is to reaffirm that and not have a situation where  
36 the forest practices rules have a different passage standard than the hydraulics code and further

1 perpetuate that by having local governments and other authorities all try their own crack at what  
2 passage means for the sake of good government and simplicity and John thinks acknowledging the  
3 expertise within the WDFW on the engineering side of fish passage John would suggest that the  
4 Board continue to acknowledge the hydraulics code as the source of determining what passage is  
5 and restrict the forest practices rules to the policy statement that fish passage is required at all life  
6 stages and then acknowledge the hydraulics code as the source to go to when you are looking into  
7 how to install the culvert. The tribes raise some good points about whether or not the priority of  
8 passage and how that ranks in rule maintenance and the abandonment plans and John would like  
9 to hear more discussion about that. John personally is willing to move out both options for public  
10 review and comment, John's personal view is that the hard and fast definition of forest practice  
11 rules is not necessary, mainly due to confusion, but John's mind is still open and he would like to  
12 hear public comment on option 2 as well.

13  
14 The next issue is WAC 222-16-010 on page 25, the definition of forest road. Terry Ruff referred  
15 to Paddy's handout on page 4 she has some alternative language for the forest road definition and  
16 the stakeholders agree with this. This would replace the definition in the March 9 draft on page  
17 25, lines 28-29 and eliminate the need for a definition of public road on page 28. The stakeholders  
18 major concern was some of the problems they have had dealing with road maintenance problems  
19 on county roads so the stakeholders changed it to "highways or county roads except when the  
20 county is a forest landowner operator." Grays Harbor County, who is actually a large forest  
21 landowner would still have to maintain their roads but most county roads would not fall into this  
22 category.

23

24 **MOTION:** Pat McElroy moved to accept Paddy O'Brien's proposed language dated  
25 3/09/01 regarding WAC 222-16-010 definition of forest roads.

26 **SECONDED:** Dick Wallace

27

28 **ACTION:** Motion passed unanimously.

29

30 Terry Ruff continued with WAC 222-16-010 on page 29, and referred to an option recommended  
31 by WEC regarding the definition of RMZ on page 2 of the WEC comment changes document.  
32 Terry explained that Forest and Fish combines sensitive sites, buffers on the N Type waters and  
33 equipment limitation zones all in its definition. It is separated out because the same standards do  
34 not apply. The stakeholders had to add the sensitive site and Np water into every place that it  
35 would apply, that had RMZ's because before when it stated RMZ in the rule it had an umbrella  
36 effect where it included all sensitive sites and Np waters and so when it was separated out the

1 stakeholders had to make sure that it was added back in and there may be some places where the  
2 stakeholders have missed that. The stakeholders were very specific when they talked about  
3 RMZ's and places in the rule, they talked about the core zone, inner zone and they did not talk  
4 about the whole RMZ all the time and they did that with the intention of bringing back all these  
5 other things and the intention was not to reduce the protection but there is some concern that that  
6 may have happened. It would be difficult to go back and change this now but if it is something the  
7 Board wants the stakeholders to do they will do it. Peter Heide wanted to add that the stakeholder  
8 group went to great lengths to go through the rules and try to find those places where as a result of  
9 a change that the stakeholders made to the definition to riparian zone would be corrected so there  
10 would not be any loss. The fundamental issue is that under the old stream of rules there was only  
11 one riparian zone and now there are three zones on fish habitat streams and there is also some  
12 riparian protection on non-fish habitat streams and they are quiet different in the way that forest  
13 practices are treated in those zones and so to have a single definition of a RMZ was difficult so  
14 what the stakeholders tried to do was to develop a definition that would apply to those places  
15 where there were standing tree buffers left where generally management was either prohibited or  
16 very minimal and then as the stakeholders looked at the other places in the rule where protection  
17 was needed for areas that they did not want to call RMZ's they called out the specific zone of the  
18 RMZ, either core or inner or some cases outer and they called out equipment limitation zone  
19 where that rule was appropriate. Mr. Heide thinks the stakeholders have addressed many of  
20 WEC's comments although they might have missed some. Mr. Heide would support fixing those  
21 that were missed, but would not support the change to the RMZ definition because the unintended  
22 consequences. The stakeholders would have to go through all the rules and remove areas where  
23 that section was not intended for that area. The stakeholders tried to make all the fixes necessary  
24 to accommodate the change in the definition and if they failed in that they would be happy for the  
25 Board to continue to make those changes.

26  
27 Judy Turpin's understanding from her review of the comments that the primary ones are the ones  
28 that they listed and she thinks that there is another change that is proposed that deals with parallel  
29 roads that the tribes have brought up and then there was a concern about slash disposal using  
30 reasonable care in burning which does not mean you don't burn but you try to be careful. The  
31 equipment limitation zone purpose was to reduce potential for sediment particularly fine sediment  
32 entry into the water that would be carried into the lower fish bearing streams. The kinds of things  
33 that are related are important when you are talking about burning which can increase the sediment  
34 load and how you deal with slash and whether you are dealing with fire trails. If the Board could  
35 address the protections that are listed under those four places rather than going back and resorting  
36 that would be an acceptable way to address it.



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Pat McElroy asked the Board needed to make any modifications to the proposal going forward so as to capture those thoughts during the public review part. Terry said that some of them are already captured, the stakeholders have an option on the equipment limitation zone that addresses the slash disposal issue, so some of those are covered and a couple are not. Judy asked that when the Board came to them if the Board could have an option or make a change. Dick Wallace said he would support that also, once you pick the road either you put it in the definition and then you exclude it later on or you try to put it in the body of the rule, Dick would rather do that.

Terry Ruff explained the changes to WAC 222-16-010 definition of site class on page 31. Terry said that the stakeholders tried to correct the problems that they had with site class. Peter Heide went on to explain the consensus decision that the stakeholders had come to. The problem with the way that the draft had been written was that on certain sites on the Westside where the state soil survey maps showed a hardwood or Red Alder site the rule stated that those were automatically considered site 5 the lowest site and it was fairly clear from the assessments that the department and some of the landowners did that that site was established during a time when Alder trees were the only species of trees growing on those sites and surveyors at the time didn't have any other site trees. Many of those sites have been harvested and replanted with Conifer and they are doing quite well. The rule change would use the most similar adjacent soil polygon that would have Conifer on it rather than a site 5. This might not be absolutely accurate because sites do vary across a landscape but at least it would be more accurate than defaulting to the lowest possible site. That was the change regarding Western Washington if there was no data at all reported in the soil survey you would also use that same technique. In Eastern Washington the problem was a little different in that many places there is simply no site index recorded for large blocks of land in Eastern Washington for what ever reason the soil surveys were not completed or not properly recorded on the departments records so there are big gaps and there is no way to go to an adjacent site. The stakeholders recommended that in those cases you assume site 3 which should probably have some review, in any case you select site 3, which is half way between 1 and 5, and unless you have some site-specific information that you could use to identify the specific site and that would only apply in Eastern Washington. The third fix is again in Eastern Washington in those locations where the forest land where rain fall goes down, forest land is going into the area where it is mostly sagebrush many times the site index was non-commercial yet someone may propose a forest practice in those areas. In that case it is appropriate to default to site class 5.

1 The next issue is WAC 222-16-010 on page 32, the definition of threatened public safety. Peter  
2 Heide said that he thinks he can save the Board some time here. Mr. Heide proposed this option  
3 and it turns out that the stakeholders agreed with it, it was the language change that Mr. Heide  
4 thought was clearer but Paddy has since looked at that and feels there are some legal concerns  
5 about that change. Mr. Heide said he would withdraw the option if the stakeholders all agree and  
6 if there are legal reasons why the wording should be a certain way Mr. Heide would not disagree.  
7 Pat McElroy asked Paddy if her wording was the same as option 1 she said yes. Pat McElroy said  
8 that the Board would leave option 1 and take out option 2.

9

10 **MOTION:** Judy Turpin moved to remove option 2 from the definition of threaten  
11 public safety in WAC 222-16-010.

12 **SECONDED:** Dick Wallace

13

14 **ACTION:** Motion passed unanimously.

15

16 The next issue is WAC 222-16-010 on page 32, line 29, the definition of unconfined avulsing  
17 stream. This is a definition that the stakeholders were looking for and this is mostly right out of  
18 the RCW the stakeholder unintentionally left out oxbow but they also dropped the last sentence.  
19 Paddy said that in the document that she handed out on page 4 she has the statutory definition.

20

21 **MOTION:** Pat McElroy moved that the definition of unconfined avulsing stream from  
22 Paddy O'Brien's minor changes document on page 4 be substitute for that  
23 which is on page 32 in the March 9, 2001 draft.

24 **SECONDED:** Dick Wallace

25

26 **ACTION:** Motion passed unanimously.

27

28 Terry Ruff said that the next change is WAC 222-16-030 on page 33 of the March 9<sup>th</sup> draft under  
29 water typing. Line 24 was struck out and on line 28 they clarified Type N water and put in Type  
30 Np and Ns.

31

32 The next issue is WAC 222-16-031, the interim water typing system on page 37 on line 43 & 46  
33 options and this is to do with electro-shocking. Terry said that he was going to try and capture this  
34 briefly and then deferring to Mr. Pleus, Mr. Price and Mr. Heide to discuss this. Terry said that, as  
35 the Board knows they did discuss the electro-shocking issue, the stakeholders have not been able  
36 to get together, and Terry believes that the stakeholders could solve this issue but they did not

1 have time due to the earthquake. Option 1 basically leaves it the way it is and references the  
2 Board manual since the shocking is referenced in the Board manual so it leaves the protocol in  
3 place. Option 2 it basically eliminates electro-shocking because it takes the Board manual and it  
4 references the protocol out and the concern is whether there should be electro-shocking in the  
5 interim rule.

6  
7 Peter Heide stated that this is a complicated issue and the first thing he would like to say is the  
8 option 2 has been referred to as removing electro-shocking it is not exactly that. The emergency  
9 water-typing rule established certain physical parameters for the presumption of present fish. At  
10 the time that the emergency rule was passed it was recognized by the Board that fish may not  
11 always be present and it was important that the landowners had the opportunity to essentially  
12 disprove the presence of fish in order to properly identify the stream as fish bearing or not fish-  
13 bearing. The techniques that are used at what the Board refers to are electro fishing but the way  
14 the emergency rule was written it allowed the field verification of presence of fish. During the  
15 Forest and Fish negotiations it was recognized that electro fishing was not always the best thing to  
16 do, although there is a great deal of scientific information that would lend credibility to the notion  
17 that electro fishing is a safe practice. During negotiations it was agreed that electro fishing should  
18 be limited and that it was not appropriate to use it as the standard technique. The Forest and Fish  
19 Report said that if the stakeholders can come up with a more balanced system for emergency water  
20 typing, which has now been converted to interim water typing, and then electro fishing could be  
21 eliminated. The reality was that the stakeholders could not come up with a better interim rule they  
22 could not come up with a balance to this rule so that electro fishing would be retained as that form  
23 of balance. Mr. Heide would say that option 1 which is to retain the emergency rule, move the  
24 emergency rule forward into the interim exactly as it was written is the correct thing to do. Pat  
25 McElroy asked Mr. Heide if he said that going with option 2 does not conform to the Forest and  
26 Fish Report. Mr. Heide said that was correct, the Forest and Fish Report was completed with the  
27 idea that the stakeholders would find a more balanced interim system, subsequent to the agreement  
28 it was not possible to get that balance system so since there was not balanced system it was agreed  
29 to move forward with the emergency rule until the permanent water typing came into effect.

30  
31 John Mankowski said that he had some thoughts. The way the Mr. Heide portrayed this is  
32 accurate in that the 1996 emergency rule package expressly talked about the role of electro-  
33 shocking as a way to more carefully refine the emergency rule typing. It is John's position that  
34 what Forest and Fish would have assumed is this in the interim until the model became effective.  
35 However, John has had discussions with some officials from NFMS who have informed WDFW  
36 that there may be a concern under the prohibition against direct take under the ESA with WDFW

1 continuing to do that and of course that raised a lot of concerns because of potential liability from  
2 WDFW issuing these permits and potential liability from landowners who are shocking. As Mr.  
3 Heide pointed out shockers can kill fish and that is a direct killing of an endangered species.  
4 WDFW has begun discussions with NMFS and others and are continuing to try and sort this out.  
5 There is no clear answer right now, John thinks option 1 is consistent with Forest and Fish but he  
6 does not want to rule out option 2 because if this cannot be resolved NMFS may draw a hard line  
7 and say there is no more electro-shocking because there are endangered listings in the upper  
8 Columbia and John thinks that it is prudent at this time while these discussions are going for the  
9 Board to move both options forward with the understanding that in the next couple of weeks or  
10 possibly months this will be clarified with the federal agencies

11

12 **MOTION:** John Mankowski moved that both options move forward.

13

14 **SECONDED:** Pat McElroy

15

16 **ACTION:** Option 2 will go forward 9/1 vote.

17

18 WAC 222-16-031(2)(d) page 37 line 25, re-inserted old language that had been taken out before.

19

20 Paddy had minor changes to WAC 222-16-080 line 44 page 48 the reference is wrong and it is in  
21 the definitions therefore it is unnecessary.

22

23 **MOTION:** Pat moved to accept the changes brought by Paddy O'Brien in the March 9,  
24 2001 draft.

25 **SECONDED:** Judy Turpin

26

27 **ACTION:** Motion passed unanimously

28

29 Paddy O'Brien explained some corrections to WAC 222-16-050(4) on page 42 of the March 9  
30 draft adding the change for perpetual timber rights.

31

32 **MOTION:** Judy Turpin moved to add on page 31, lines 37-42 an option 2 to the  
33 definition of stream-adjacent parallel roads in WAC 222-16-010 to  
34 incorporate the #6 from the tribal issues.

35 **SECONDED:** Keith Johnson

36

1 ACTION: Motion passed unanimously.

2  
3 Paddy reminded the board that their prior action to have the reasonable use exception as a separate  
4 rule making would mean the changes to WAC 222-16-050(1)(i) should be removed. In addition,  
5 the board's acceptance of the revised HCP language includes a change to WAC 222-16-050 and a  
6 new section WAC 222-16-051.

7  
8 MOTION: Pat McElroy called for the vote on moving chapter 16 forward as amended.

9 SECONDED: Dick Wallace

10

11 ACTION: Motion carried 1 opposed and 8 yes.

12

13 **Chapter 222-20**

14 MOTION: Pat McElroy moved that the Forest Practices Board accept for public  
15 review, the permanent rule proposal in the March 9, 2001 document for  
16 Chapter 222-20 as amended today, and that staff file the rules with the Code  
17 Reviser for publication in the Washington State Register.

18 SECONDED: Dick Wallace

19

20 ACTION: Motion passed unanimously.

21

22 **Chapter 222-21**

23 MOTION Pat McElroy moved that the Forest Practices Board accept for public  
24 review, the permanent rule proposal in the March 9, 2001 document for  
25 Chapter 222-21 as amended today, and that staff file the rules with the Code  
26 Reviser for publication in the Washington State Register.

27 SECONDED John Mankowski

28

29 ACTION: Motion passed unanimously

30

31 **Chapter 222-22**

32 MOTION: Pat McElroy moved that the Forest Practices Board accept for public  
33 review, the permanent rule proposal in the March 9, 2001 document for  
34 Chapter 222-22 as amended today, and that staff file the rules with the Code  
35 Reviser for publication in the Washington State Register.

36 SECONDED: John Mankowski

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**ACTION:** Motion passed unanimously

**Chapter 222-23**

**MOTION:** Pat McElroy moved that the Forest Practices Board accept for public review, the permanent rule proposal in the March 9, 2001 document for Chapter 222-23 as amended today, and that staff file the rules with the Code Reviser for publication in the Washington State Register.

**SECONDED:** Dick Wallace

**MOTION:** Pat McElroy moved to strike WAC 222-23-010(2)(c) on page 92.

**SECONDED:** Dick Wallace

**ACTION:** Motion passed unanimously

**MOTION:** Pat McElroy moved that WAC 222-23-025(1) Option 2, page 96 be stricken.

**SECONDED:** Lloyd Anderson

**Board Discussion**

Bob Meier spoke against option 2 because he felt it an unlawful delegation and was inconsistent with the statute. Paddy O'Brien indicated she did not see an inconsistency problem but indicated although the department can involve others, it should make the decision itself. Dick Wallace and John Mankowski are opposed to the motion. Dick suggested striking the part about meeting participants on page 96, line 40. He indicated that money is limited and it made sense to spend it in the best places. Pat McElroy indicated the statute requires priorities for acquisition and neither option may do that.

**ACTION:** Motion failed, 1 yes/8 no

**MOTION:** Dick Wallace made a motion to modify WAC 222-23-025 by striking the last sentence on page 96 line 41 and then add on line 40 "the order in which the application is received".

**SECONDED:** John Mankowski.

**ACTION:** Motion passed unanimously

1 **Chapter 222-24**

2 **MOTION:** Pat McElroy moved that the Forest Practices Board accept for public  
3 review, the permanent rule proposal in the March 9, 2001 document for  
4 Chapter 222-24 as amended today, and that staff file the rules with the Code  
5 Reviser for publication in the Washington State Register.

6 **SECONDED:** John Mankowski

7

8 **MOTION:** Judy Turpin moved to modify the motion to accept changes presented by  
9 WEC to WAC 222-24-010.

10 **SECONDED:** John Mankowski

11

12 **ACTION:** Motion passed unanimously

13

14 **Chapter 222-30**

15 **MOTION:** Pat McElroy moved that the Forest Practices Board accept for public  
16 review, the permanent rule proposal in the March 9, 2001 document for  
17 Chapter 222-30 as amended today, and that staff file the rules with the Code  
18 Reviser for publication in the Washington State Register.

19 **SECONDED:** Dick Wallace

20

21 **MOTION:** Pat McElroy moved to accept change to WAC 222-30-020 on line 14, page  
22 115.

23 **SECONDED:** Dick Wallace

24

25 **ACTION:** Motion passed unanimously

26

27 **MOTION:** Judy Turpin moved to strike “where feasible” in WAC 222-30-020(6) on  
28 line 59, page 116.

29 **SECONDED:** Fran Abel

30

31 **Board Discussion:**

32 Forest and Fish did not negotiate wetland rules. Lloyd Anderson feels that the strike out ought to  
33 be left in Dick Wallace opposes the motion as well.

34

35 **ACTION:** Motion failed, 4 yes/5 oppose.

36

1 MOTION: Judy Turpin moved to add WEC comments to WAC 222-30-020(9) on page  
2 118, line 20 as an option.

3 SECONDED: Keith Johnson  
4

5 **Board Discussion**

6 Dick Wallace opposes the motion; Pat McElroy opposes the motion also.  
7

8 ACTION: Motion failed, 1 yes/8 oppose.  
9

10 MOTION: Pat McElroy moved to replace Option 2 in WAC 222-30-020(11) on page  
11 119, line 14 with Department language.

12 SECONDED: John Mankowski  
13

14 ACTION: Motion passed unanimously. Both options with go forward.  
15

16 MOTION: Judy Turpin moved to strike “without written approval of the department”  
17 in WAC 222-30-020(7) on page 118, line 6.

18 SECONDED: Keith Johnson  
19

20 **Board Discussion**

21 Lloyd Anderson opposes the motion; Pat McElroy opposes the motion as well.  
22

23 ACTION: Motion failed, 1 yes/8 opposed.  
24

25 **Board Discussion**

26 Dick Wallace opposes the motion, Pat McElroy opposes the motion as well but wants to take it to  
27 public comment.  
28

29 MOTION: Judy amended her motion to include it as an option.

30 SECONDED Fran Abel  
31

32 ACTION: Motion passed unanimously  
33

34 MOTION: Pat McElroy moved to add WEC language for WAC 222-30-070 as an  
35 option with direction to the stakeholders to work it out.

36 SECONDED: John Mankowski



1  
2 ACTION: Motion passed unanimously  
3  
4 MOTION: Judy Turpin moved to add equipment limitation zones possibly after RMZ  
5 to WAC 222-30-100 on page 145, (b), line 31.  
6 SECONDED: Dick Wallace  
7  
8 ACTION: Motion passed unanimously  
9  
10 MOTION: Judy Turpin moved to add Equipment Limitation zones to WAC 222-30-  
11 100 after  
12 "wetland management zones" on p 145 , line 50.  
13 SECONDED: John Mankowski  
14  
15 ACTION: Motion passed unanimously  
16  
17 MOTION: Pat McElroy moved to accept Chapter 30 as amended.  
18 SECONDED: Dick Wallace  
19  
20 ACTION: Motion passed unanimously  
21  
22 **Chapter 222-34**  
23 MOTION: Pat McElroy moved that the Forest Practices Board accept for public  
24 review, the permanent rule proposal in the March 9, 2001 document for  
25 Chapter 222-34 as amended today, and that staff file the rules with the Code  
26 Reviser for publication in the Washington State Register.  
27 SECONDED: Dick Wallace  
28  
29 ACTION: Motion passed unanimously  
30  
31 **Chapter 222-38**  
32 MOTION: Pat McElroy moved that the Forest Practices Board accept for public  
33 review, the permanent rule proposal in the March 9, 2001 document for  
34 Chapter 222-38 as amended today, and that staff file the rules with the Code  
35 Reviser for publication in the Washington State Register.  
36 SECONDED: Dick Wallace

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**ACTION:** Motion passed unanimously

**Chapter 222-42**

**MOTION:** Pat McElroy moved that the Forest Practices Board accept for public review, the permanent rule proposal in the March 9, 2001 document for Chapter 222-42 as amended today, and that staff file the rules with the Code Reviser for publication in the Washington State Register.

**SECONDED:** Keith Johnson

**ACTION:** Motion passed unanimously

**Chapter 222-46**

**MOTION:** Pat McElroy moved that the Forest Practices Board accept for public review, the permanent rule proposal in the March 9, 2001 document for Chapter 222-46 as amended today, and that staff file the rules with the Code Reviser for publication in the Washington State Register.

**SECONDED:** Dick Wallace

**ACTION:** Motion passed unanimously

**Chapter 222-50**

**MOTION:** Pat McElroy moved that the Forest Practices Board accept for public review, the permanent rule proposal in the March 9, 2001 document for Chapter 222-50 as amended today, and that staff file the rules with the Code Reviser for publication in the Washington State Register.

**SECONDED:** Keith Johnson

**ACTION:** Motion passed unanimously

**REPORT TO LEGISLATURE ON VARIATIONS FROM THE FOREST AND FISH ACT**

**MOTION:** Judy Turpin moved that the Board direct the chair to notify the legislature about the consistency of the rule proposal with the Forest and Fish Report as discussed today.

**SECONDED:** Dick Wallace

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**ACTION:** Motion passed unanimously

**MOTION:** Bob Kelly moved that the Board direct the Adaptive Management stakeholder subgroup to continue meeting to further develop rule language for WAC 222-08-035 and 222-12-045.

**SECONDED** John Mankowski

**ACTION:** Motion passed unanimously.

Dick Wallace once again acknowledged the stakeholders and especially Terry Ruff for the work they have done in preparing this rule package. He also informed the Board that Ecology was working on revising water quality standards and an antidegradation issue paper. The adaptive management process will be used to make further adjustments if necessary to meet water quality standards. He will work with staff to make sure the public notice addresses this.

**MOTION:** Bob Kelly moved that the Board direct the Watershed Analysis stakeholder subgroup to further develop rule language for WAC 222-22.

**SECONDED:** Keith Johnson

**ACTION:** Motion passed unanimously

Pat McElroy thanked the stakeholders, staff and other agencies for their hard work.

**CLOSING REMARKS**

The Board adjourned the regular session at 4:25 p.m. Executive Session was called to discuss matters in litigation at 4:30 p.m. The Executive Session adjourned at 4:40 p.m. The next regular quarterly meeting is scheduled for August 8, 2001, beginning at 9:00 a.m. at the Natural Resources Building. There is a special meeting scheduled for May 17, 2001.