




**DEPARTMENT OF
NATURAL RESOURCES**

Forest Practices Division
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July 21, 2023

TO: Forest Practices Board 
FROM: Marc Engel, Senior Policy Planner, Forest Regulation
SUBJECT: Rule Making and Board Manual Update

Staff continues to facilitate the development of the rule packages for the Water Typing System and Type Np Water Buffer rules. The status of each rulemaking follows:

Water Typing System Rule

At present, the preparation of Water Typing System rule packet is on schedule to present to the Board in August 2024, see attached spreadsheet.

Draft Rule

DNR has scheduled the next stakeholder meeting for the 25th July, and anticipates the completion of the draft rule by the end of August. DNR has incorporated Board approved rule elements and caucus comments received in early July. The final stakeholder elements for review include:

- Off channel habitat;
- Incorporation of Default Physical Characteristics; and
- Placement of the Anadromous Fish Floor (AFF).

Potential Habitat Breaks (PHB) and Anadromous Fish Floor (AFF) Spatial Analysis

The contract is in place to perform the spatial analyses for the Water Typing System and Type Np Water Buffer rules. The preparation of a synthetic stream network is currently under way. The synthetic streams must be completed before the spatial analysis for Water Typing System and then for the Type Np Water Buffer rules can be completed.

Economic Analysis

The draft Cost Benefit Analysis and Small Business Economic Impact Statement need to be amended and then completed. These analyses cannot be finished until the draft rule language, results of the spatial analysis, and an agreed upon process to perform the qualitative analysis are completed. DNR has scheduled internal meetings in preparation for the reconvening of the Economist Workgroup.

Environmental Analysis

DNR staff has initiated internal discussions to determine capacity to complete the environmental assessment of the Board approved options for the Water Typing System rule under the State Environmental Policy Act (SEPA).

Board Manual Section 23 Guidelines for Field Protocol to Locate Mapped Division Between Stream Types and Perennial Stream Identification

DNR will re-convene the stakeholder workgroup to complete the draft board manual when the draft rules are completed. In the time since the last meeting of the Board Manual Section 23 stakeholder group, the Board has approved new AFF alternatives and additional clarity has been added to the draft rule for the protection of off-channel habitat and better clarity of the PHB options.

Type Np Water Buffer Rule

With an anticipated August 2023 Board action regarding the buffer for inclusion in the Type Np Water Buffer rule, the preparation of Type Np Water Buffer rule packet is on schedule to present to the Board in August 2024. Each of the Type Np Water Buffer rule packet elements will be initiated with the completion of the corresponding element for the Water Typing System rule. At present, the initiation of the first two elements, draft rule and spatial analysis, may be in September for the draft rule and October for the spatial analysis.

Marbled Murrelet

The public comment period for the Board approved Marbled Murrelet expedited rule closed on July 25, 2023. In preparation for expedited rule making, DNR has convened a stakeholder workgroup to amend Board Manual Section 14, *Survey Protocol for Marbled Murrelets* and 15, *Guidelines for Estimating the Number of Marbled Murrelet Nesting Platforms and for Harvesting Adjacent to Lands Designated as Critical Habitat (State) for Marbled Murrelet*. A separate memo to the Board will summarize the results of the Marbled Murrelet rule making.

Northern Spotted Owl SHA Enrollment Rule Making

The U.S. Fish and Wildlife Service (USFWS) has informed DNR that they will be unable to participate in the preparation of the final Safe Harbor Agreement and associated environment assessment for at least six months. When the USFWS has capacity, DNR will report to the Board and provide a time line to gain USFWS approval of, and DNR authorization to administer, a programmatic NSO Safe Harbor Agreement. With approval of the NSO SHA, DNR will request Board approval to initiate rulemaking to provide public awareness of the SHA and the enrollment mechanism to participate.

I look forward to presenting the rule making and board manual update at your August meeting. If you have any questions, please contact me at 360 628-1107 or marc.engel@dnr.wa.gov.

Attachments:

Water Typing System Rule Making Gantt Chart

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