



December 15, 2012

Steve W. Landino
NOAA Fisheries Service
510 Desmond Drive SE, Suite 103
Lacey, WA 98503

Subject: 2012 Forest Practices HCP Annual and 5-year Reports,
Incidental Take Permits 1573 (NOAA) and TE 121202-0 (USFWS)

Dear Mr. Landino:

Enclosed please find the 2012 Annual Report for the *Forest Practices Habitat Conservation Plan* (Forest Practices HCP) and the first Five-Year Report. The annual report covers the period from July 2011 through June 2012, and the five-year report covers the period from June 5, 2006 through June 30, 2011. These reports fulfill the State's obligation to "submit periodic reports to the federal services describing actions taken by the State to implement the Forest Practices HCP" per Section 9.1 of the Implementing Agreement.

As you know, the Forest Practices HCP and program are built upon a foundation of collaboration among the Forests & Fish caucuses. The Service's participation and leadership in that collaborative structure is essential to our success. In May of this year, we reached an important milestone by averting legal challenge to the Forest Practices HCP through collaborative settlement negotiations. This agreement reaffirms the regulatory stability of the Forest Practices HCP, and recommits the parties to functional adaptive management policy and science processes, as well as securing the fiscal resources necessary for a viable program. Together these efforts have strengthened our 50-year commitment to protecting public resources and maintaining a viable forest products industry.

A few highlights from the reports include:

- During the last several years of economic downturn, the State was able to preserve staffing levels specifically for necessary field work including: compliance and enforcement of Forest Practices rule and law, despite a \$4 million dollar reduction in legislatively allocated budget.

Mr. Steve Landino
Page 2 of 2
December 15, 2012

- During the first 5 years of Forest Practices HCP implementation, the State produced or modified several Forest Practices Rules and chapters of the Board Manual, offering improvements regarding issues that affect water, wildlife and other public resources, tribes, and small and large forest landowners.
- The State provided an exemplary response to the catastrophic results of the unpredicted December 2007 storm that brought up to 19 inches of rain and wind gusts exceeding 80 miles per hour to Western Washington.
- During the first 5 years of implementation under the Forest Practices HCP, 32 Adaptive Management Projects have been completed, 500 fish passage barriers on small forestland ownerships and 4,258 barriers on large forestland ownerships have been corrected, and 18,738 miles of large forest landowner roads have been improved.

Both reports can be found on the Washington State Department of Natural Resources website at www.dnr.wa.gov.

The State looks forward to a strong, continuing partnership with the U.S. Fish and Wildlife Service and NOAA National Marine Fisheries Service to conserve federally listed aquatic species and their habitats on Washington's private and state-owned forest lands.

I certify that, to the best of my knowledge, after appropriate inquiries, the information submitted in these reports is true, accurate and complete.

Sincerely,


Peter Goldmark
Commissioner of Public Lands

c: The Honorable Christine Gregoire, Washington State Governor
State Forest Practices Board
Phil Anderson, Director, Washington State Department of Fish and Wildlife
Ted Sturdevant, Director, Washington State Department of Ecology



December 15, 2012

Mr. Ken Berg
Western Washington Fish and Wildlife Office
United State Fish and Wildlife Service
510 Desmond Dr. SE, Suite 102
Lacey, WA 98503

Subject: 2012 Forest Practices HCP Annual and 5-year Reports,
Incidental Take Permits TE 121202-0 (USFWS) and 1573 (NOAA)

Dear Mr. Berg:

Enclosed please find the 2012 Annual Report for the *Forest Practices Habitat Conservation Plan* (Forest Practices HCP) and the first Five-Year Report. The annual report covers the period from July 2011 through June 2012, and the five-year report covers the period from June 5, 2006 through June 30, 2011. These reports fulfill the State's obligation to "submit periodic reports to the federal services describing actions taken by the State to implement the Forest Practices HCP" per Section 9.1 of the Implementing Agreement.

As you know, the Forest Practices HCP and program are built upon a foundation of collaboration among the Forests & Fish caucuses. The Service's participation and leadership in that collaborative structure is essential to our success. In May of this year, we reached an important milestone by averting legal challenge to the Forest Practices HCP through collaborative settlement negotiations. This agreement reaffirms the regulatory stability of the Forest Practices HCP, and recommits the parties to functional adaptive management policy and science processes, as well as securing the fiscal resources necessary for a viable program. Together these efforts have strengthened our 50-year commitment to protecting public resources and maintaining a viable forest products industry.

A few highlights from the reports include:

- During the last several years of economic downturn, the State was able to preserve staffing levels specifically for necessary field work including: compliance and enforcement of Forest Practices rule and law, despite a \$4 million dollar reduction in legislatively allocated budget.



Mr. Ken Berg
Page 2 of 2
December 15, 2012

- During the first 5 years of Forest Practices HCP implementation, the State produced or modified several Forest Practices Rules and chapters of the Board Manual, offering improvements regarding issues that affect water, wildlife and other public resources, tribes, and small and large forest landowners.
- The State provided an exemplary response to the catastrophic results of the unpredicted December 2007 storm that brought up to 19 inches of rain and wind gusts exceeding 80 miles per hour to Western Washington.
- During the first 5 years of implementation under the Forest Practices HCP, 32 Adaptive Management Projects have been completed, 500 fish passage barriers on small forestland ownerships and 4,258 barriers on large forestland ownerships have been corrected, and 18,738 miles of large forest landowner roads have been improved.

Both reports can be found on the Washington State Department of Natural Resources website at www.dnr.wa.gov.

The State looks forward to a strong, continuing partnership with the U.S. Fish and Wildlife Service and NOAA National Marine Fisheries Service to conserve federally listed aquatic species and their habitats on Washington's private and state-owned forest lands.

I certify that, to the best of my knowledge, after appropriate inquiries, the information submitted in these reports is true, accurate and complete.

Sincerely,



Peter Goldmark
Commissioner of Public Lands

c: The Honorable Christine Gregoire, Washington State Governor
State Forest Practices Board
Phil Anderson, Director, Washington State Department of Fish and Wildlife
Ted Sturdevant, Director, Washington State Department of Ecology

Forest Practices Habitat Conservation Plan

July 1, 2011- June 30, 2012

Annual Report

Washington State Department of Natural Resources

Forest Practices Program, Forest Practices Division

Carol Walters and Charlene Rodgers



Table of Contents

Chapter	Title
	Executive Summary
1	Introduction to Forest Practices Habitat Conservation Plan 2012 Annual Report
	1.1 Introduction
	1.2 2012 Report Highlights
2	Forest Practices Board
	2.1 Introduction
	2.2 Forest Practices Board Overview
	2.3 Forest Practices Board Rule Making Activity
	2.4 Anticipated Forest Practices Board Direction
	2.5 Forest Practices Board Manual
3	Adaptive Management Program
	3.1 Introduction
	3.2 Adaptive Management Program
	3.3 Cooperative Monitoring, Evaluation and Research Committee History
	3.4 CMER Work Plan and Activities
	3.5 Forests and Fish Policy Committee Activity
	3.6 Adaptive Management Program Website
	3.7 Electrofishing Report
4	Forest Practices Operations
	4.1 Introduction
	4.2 Forest Practices Activities
	4.3 Priorities
5	Small Forest Landowner Office
	5.1 Introduction
	5.2 Forestry Riparian Easement Program
	5.3 Family Forest Fish Passage Program
	5.4 Small Forest Landowner Office Outreach
6	20-Acre Exempt Riparian Forestland
	6.1 Introduction
	6.2 Type Np Water Leave Tree Requirement
	6.3 Watershed Administrative Unit and Water Resource Inventory Area Thresholds
	6.4 Cumulative Reduction in Function Calculation Methodology
	6.5 Data Collection for Watershed Administrative Unit Threshold
	6.6 Bull Trout Areas of Concern
	6.7 20-Acre Exempt Forest Practices Application Data
7	Alternate Plans, Rivers and Habitat Open Space Program
	7.1 Introduction

	7.2	Alternate Plans
	7.3	Rivers and Habitat Open Space Program
8	Enforcement	
	8.1	Introduction
	8.2	Enforcement Activity
9	Compliance Monitoring Program	
	9.1	Introduction
	9.2	Compliance Monitoring Program Design
	9.3	Highlights of the Compliance Monitoring Program
	9.4	Future Plans for the Compliance Monitoring Program
	9.5	Funding
10	Training/Education/Information	
	10.1	Introduction
	10.2	Status of Forest Practices Training Programs
11	Road Maintenance and Abandonment Planning for Large Forest Landowners	
	11.1	Introduction
	11.2	Extension of RMAP Deadline
	11.3	Road Maintenance and Abandonment Plan Implementation
	11.4	Washington Department of Fish and Wildlife Efforts
12	Tribal Relations	
	12.1	Introduction
	12.2	Landowner/Tribal Meeting and WAC 222-20-120 Update
	12.3	Update on Timber/Fish/Wildlife Cultural Resources Roundtable
13	Washington State Legislature	
	13.1	Introduction
	13.2	Provisions of Selected 2012 Washington State Laws
14	Information Technology	
	14.1	Information Technology-Based Tools
15	Forest Practices Program Budget	
	15.1	Introduction
	15.2	2011-2013 Biennial Allocation by Activity
	15.3	Full Time Employees
16	Washington Timber Harvest Report	
	16.1	Introduction
17	References	
18	List of Acronyms	
19	Appendix	

Acknowledgements

On behalf of Washington State, this report was prepared by the Washington State Department of Natural Resources,
Peter Goldmark, Commissioner of Public Lands.
2012

Executive Sponsorship

Lenny Young, Department Supervisor
Aaron Everett, Deputy Supervisor for Forest Practices and Federal Relations

Forest Practices Division

Darin Cramer, Manager

Forest Practices Program Staff

Review and Assistance

Forest Practices Division
Communications and Outreach

Other Contributors

Terry Jackson and Laura Till, Washington Department of Fish and Wildlife
Mark Hicks and Stephen Bernath, Washington Department of Ecology

Successful implementation of the Forest Practices Habitat Conservation Plan involves the efforts of all of our partners in resource protection.

Washington Department of Fish and Wildlife
Washington Department of Ecology
Governor's Salmon Recovery Office
Recreation and Conservation Office
Washington Forest Protection Association
Washington Farm Forestry Association
Conservation Caucus
Northwest Indian Fisheries Commission
US Fish and Wildlife Service
NOAA Fisheries
US Environmental Protection Agency

Contact Information

Charlene Rodgers or Carol Walters, Forest Practices Habitat Conservation Plan Administrators
Washington State Department of Natural Resources
Forest Practices Division
P.O. Box 47012, Olympia, WA 98504-7012
Phone: (360) 902-1409 or online at: HCP_Administrator

Executive Summary

In 2006, Washington State completed the [Forest Practices Habitat Conservation Plan](#) (Forest Practices HCP) (DNR 2005) with the goal of obtaining Incidental Take Permits (ITPs) from the United States Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NOAA Fisheries) (collectively, “the Services). Implementation of the Forest Practices HCP protects aquatic and riparian-dependent species on more than 9 million acres of state and private forestlands. That is, the State and private forest landowners are committed to protect certain fish and amphibians that live in or depend on streams, lakes, and wetlands and the forests adjacent to them. This multi-stakeholder effort addressed the habitat needs of certain fish species that are federally designated as ‘threatened’ or endangered’. The Services accepted Washington’s Forest Practices HCP, and under the authority of the Endangered Species Act, on June 5, 2006 the Services issued Incidental Take Permits to Washington State. The Incidental Take Permits provide assurances for Washington’s state and private forest landowners who, if conducting forest practices activities in compliance with Forest Practices Rules, cannot be prosecuted if they incidentally “take” a member of a species covered by the ITP.

As a part of the Forest Practices HCP agreement, the State submits to the Services an annual report describing implementation activities. This, the sixth annual report, covers the period from July 1, 2011 to June 30, 2012. The report describes the State’s efforts (Washington State Department of Natural Resources (DNR) Forest Practices Program, Washington Department of Fish and Wildlife (WDFW), and Washington Department of Ecology (Ecology) to implement the Forest Practices HCP.

July 2011 – June 2012 Activities and Accomplishments

General

- In response to a potential challenge to the United States Fish and Wildlife Service and NOAA National Marine Fisheries Service 2006 decisions approving Incidental Take Permits for the Forest Practices HCP, the State negotiated a settlement agreement (Appendix 6) with the Forests and Fish Conservation Caucus and the Washington Forest Protection Association concerning implementation of the *Forest Practices Habitat Conservation Plan*. The settlement agreement establishes a renewed commitment by all parties to collaboration, a streamlined decision making process for the Adaptive Management Program, a more rigorous schedule for Adaptive Management Program scientific research that will inform needed rule changes over time, and a stronger plan for ensuring that the Adaptive Management Program is adequately funded. The settlement agreement also resulted in the State requesting (Appendix 7) and obtaining (Appendix 8) a minor modification to the Forest Practices HCP Implementing Agreement under *Section 7 Funding* of the Implementing Agreement, *paragraph 7.1*. The modification clarified the provisions regarding the minimum funding level for administration of the Department of Natural Resources’ forest practices regulatory program and specified a series of procedural steps to follow should funding fall below the minimum threshold.

The Forest Practices Board (Board) adopted four rule amendments.

- In August 2011, the Board adopted changes to the rules related to Road Maintenance and Abandonment Plans (RMAPs)—WACs 222-24-050 and 222-24-051. The change was to give forest landowners the opportunity to extend the performance period for their RMAPs up to five years, or until October 31, 2021. The Board’s rule change followed a recommendation from the Forests and Fish Policy Committee and also included a comprehensive set of recommended improvements to the RMAPs program.
- The Board amended WAC 222-20-120 *Notice of forest practices to affected Indian tribes* in February 2012. The rule established an improved process for forest landowners and affected Indian tribes to achieve the rule’s landowner-tribe meeting requirement when landowners’ proposed forest practices may intersect with cultural resources.
- Also in February 2012, the Board eliminated the bald eagle and peregrine falcon critical habitats from WAC 222-16-080 *Critical Habitats (state) of threatened and endangered species*. The reason for removing these species is that they are no longer listed as threatened or endangered under federal or state laws. However, they continue to receive protection under the federal Bald and Golden Eagle Protection Act and the Migratory Bird Act.
- The Board adopted rules to carry out 2011 legislation (ESHB 1509) that made changes to the Forestry Riparian Easement Program.

The Forest Practices Adaptive Management Program completed research projects, made recommendations to the Forest Practices Board, completed a LEAN process and convened subgroups to work on priority issues.

- Two research projects were completed by the Cooperative Monitoring, Evaluation and Research (CMER) Committee and considered for action by the Policy Committee and Forest Practices Board. The projects were: *Results of the Westside Type N Buffer Characteristics, Integrity and Function Study Final Report* and *Evaluation of the Effectiveness of the Current TFW Shade Methodology for Measuring Attenuation of Solar Radiation to the Stream*. The Policy Committee did not recommend changes to rules resulting from the reports.
- The Policy Committee recommended changes in the Board Manual regarding guidance to landowners related to road maintenance and abandonment planning—which the Forest Practices Board approved—based on results from the completed *Washington Road Sub-Basin Scale Effectiveness Monitoring First Sampling Event (2006-2008) Report*.
- One other draft final report, “*The Mass Wasting Effectiveness Monitoring Project: An examination of the landslide response to the December 2007 storm in Southwestern Washington*” has been revised based on reviewer comments by Independent Scientific Peer Review, but CMER has not yet accepted the report as final.
- In an effort to improve program efficiency, Policy Committee participants recommended that the Forest Practices Board direct the Adaptive Management Program to review its

processes using LEAN process improvement methodologies—aimed at eliminating non-value-added work or processes, and setting quantitative performance targets. The Adaptive Management Program conducted an “opportunity assessment” using a LEAN consultant to determine which program processes are most suitable for LEAN reviews. They chose to conduct a LEAN process on CMER’s approach to developing, reviewing, and approving scoping documents and study designs. The LEAN process was conducted and CMER agreed to pilot two to three studies on its project list using the method developed through the process.

- The Policy Committee initiated discussions on two priority work list items: development of a Type N Water strategy and development of a strategy for transitioning from the interim water typing rule (Type F/N Water break) to a permanent rule to ensure protection of fish habitat. Development of a strategy for Type N Water is Policy’s highest priority, and its purpose is to examine the effectiveness of the Type N Water rules in protecting water quality including: a) ranking and funding Type N Water studies as highest priorities for research, b) resolving issues regarding identifying the uppermost point of perennial flow, and c) completing a comprehensive literature review examining the effects of buffering headwater streams.

Washington Department of Fish and Wildlife (WDFW) provided a crucial role in forest practices operational issues.

- WDFW regional biologists reviewed over 6,000 Forest Practices Applications and issued approximately 670 Hydraulic Project Applications (HPAs) associated with those applications. Many HPAs include multiple projects or locations that need to be specifically reviewed and conditioned; for the 670 HPAs issued, there were approximately 1,100 projects or locations.

The riparian buffers on 20-acre exempt parcels may provide less riparian protection for the habitat of HCP-covered aquatic species than the standard Forest Practices Rules. The Incidental Take Permits of the Forest Practices HCP include a condition to measure potential recruitment of large woody debris from the riparian buffers for 20-acre exempt parcels as the means to determine if there is a reduction in riparian function. Standing snags and trees that could eventually fall into the stream are important habitat elements that slows the flow of water, shades the stream, and provide organic matter which attracts insects that feed fish and other species.

- For the reporting period, there were 84 approved 20-acre exempt Forest Practices Applications out of 4,946 *approved* Forest Practices Applications (of the 5,302 total applications received during the reporting period). These 20-acre exempt (non-conversion) applications along fish-bearing water comprised 1.7 percent of all approved applications submitted during the 2011-2012 reporting period.
- There are a total of 846 watershed administrative units in Washington State, of which 154 have some measure of reduction in potential recruitment function from 20-acre exempt Forest Practices Applications. Currently, in-office calculations indicate that over the six-year period of the Incidental Take Permits, all watershed administrative units affected by

20-acre exempt FPAs, except for one, have less than one percent cumulative reduction in riparian function as measured by large woody debris recruitment.

- The Incidental Take Permits require the review of specifically identified bull trout spawning and rearing habitat areas. These areas are of concern due to extremely low populations of bull trout. There was one Forest Practices Application associated with a 20-acre exempt parcel in the bull trout areas of concern (Hutchinson Creek WAU) during the reporting period from July 1, 2011 through June 30, 2012.

The Compliance Monitoring Program published the *Biennium 2010-2011 Compliance Monitoring Summary Report* in April 2012. This report summarized results in which randomly selected and approved Forest Practices Applications were assessed for compliance with the Forest Practices Rules.

- The study design for 2010-2011 focused on Riparian Management Zone (RMZ) rules for all typed waters (WAC 222-30) along with Road Construction and Maintenance rules (WAC 222-24) applied at the Forest Practices Application site. Additionally, the design also included a sample for determining haul route compliance.
 - Road-related compliance with approved Forest Practices Applications was 85 percent. The new haul route survey showed that 96 percent of existing haul routes sampled were compliant with sediment delivery standards.
- An additional emphasis sample examined how well water type classification was being implemented in terms of consistency with compliance monitoring team observations.
 - Riparian prescription compliance rates ranged between 43 and 95 percent (see chapter 9 for more information).

The Forest Practices Program obtained funding for a training manager in late FY 2012. The new manager and staff will develop a strategy for future trainings to be developed and implemented in the coming year. This training program will place heavy emphasis on improving evaluations of risk to public resources and public safety, reduction in mass wasting events related to forest practices activities, and compliance monitoring results.

The Forest Practices Program has implemented standardized data collection and evaluation to support Road Maintenance and Abandonment Planning (RMAP), and created a reporting process more conducive to stakeholder participation in review.

- A statewide Geographic Information System (GIS) database was created for RMAP information, improving data sharing and transparency among stakeholders. Particular attention remains focused on implementation consistency and standardization, including even-flow of the road work over the life of the RMAP and worst-first assessment (prioritizing road work based on the highest potential to damage public resources) and tracking.

Washington Department of Fish and Wildlife biologists reviewed approximately 650 RMAPS statewide and issued approximately 400 Hydraulic Project Application (HPA) permits associated with those RMAPs. As many HPAs include multiple projects or locations, these 400 HPAs equate to over 700 projects or locations associated with RMAPs.

The Timber/Fish/Wildlife Cultural Resources Roundtable presented to the Forest Practices Board a consensus recommendation to amend WAC 222-20-120. In February 2012, the Board adopted amendments to WAC 222-20-120 to accomplish the following:

- Call attention in the rule title to the fact that the rule includes requirements for applications that involve cultural resources.
- Clearly state that DNR is to notify affected Indian tribes of proposed forest practices based on the tribe's designated geographic areas of interest, rather than only those applications that a tribe might have a concern with.
- Resolve ongoing issues with the requirement that the landowner and the tribe(s) "shall meet" when the forest practices involves a cultural resource. The main issue was that when an application involved a cultural resource, the landowner and affected Indian tribe(s) were required to meet with the objective of agreeing on a plan to protect the cultural resource, even if the tribe had no concern about the proposed forest practice. Not meeting would result in a disapproved application. The rule amendments specify the meeting is "at the tribe's discretion" and provides two new options to comply with the meeting requirement.
- Remove the requirement that the tribe(s) must determine whether a landowner-tribe agreed-to plan will or will not be sent to the Department of Archaeology and Historic Preservation.

The Forest Practices Application Review System (FPARS) streamlines the processing of Forest Practices Applications, and it provides the public with the ability to review proposed forest activities statewide. It makes use of the Internet, document imaging and management technology, interactive GIS technology, and the Oracle database system. These technologies collect Forest Practices Application information, distribute the applications for regulatory and public review, conduct risk assessment of proposed activities, and archive the applications. A total of 5,302 Forest Practices Applications/ Notifications were received and entered into FPARS between July 1, 2011, and June 30, 2012.

The Forest Practices Program continues to support the Forest Practices Risk Assessment Tool. A "Cultural Resources" data folder was added that contains layers with links to US Geological Survey maps, US Army Mapping Service maps, and Government Land Office historical maps. These historical maps can be used to assist in the investigation of possible cultural resources in the vicinity of proposed forest practices. A map layer also was added that provides the geographic extent of 29 tribes' area of interest and tribal contacts regarding cultural resources.

1. Introduction to Forest Practices Habitat Conservation Plan 2012 Annual Report

1.1 Introduction

In 2006, Washington State completed the Forest Practices Habitat Conservation Plan (Forest Practices HCP) with the goal of obtaining Incidental Take Permits (ITPs) from the United States Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NOAA Fisheries) (collectively, the Services). Implementation of the Forest Practices HCP protects aquatic and riparian-dependent species on more than 9 million acres of state and private forestlands. That is, the State and forest landowners are committed to protect certain fish and amphibians that live in or depend on streams, lakes, and wetlands and the forests adjacent to them. This multi-stakeholder effort addressed the habitat needs of certain fish species that are federally designated as ‘threatened’ or ‘endangered’. The Services accepted Washington’s Forest Practices HCP and under the authority of the Endangered Species Act, on June 5, 2006, the Services issued Incidental Take Permits to Washington State. The Incidental Take Permits provide assurances for Washington’s state and private forest landowners who, if conducting forest practices in compliance with Forest Practices Rules, cannot be prosecuted if they incidentally “take” (kill a member of or harm the habitat of) an aquatic or riparian-dependent species covered by the Incidental Take Permits. The implementation of the Forest Practices HCP is a partnership between the Services and Washington State.

Three state agencies—the Washington State Department of Natural Resources (DNR), the Washington Department of Fish and Wildlife (WDFW), and the Washington Department of Ecology (Ecology)—work together to implement the Forest Practices HCP. DNR provides the majority of staff positions that oversee implementation of this HCP due to the authority given the department in the Forest Practices Act (chapter 76.09 Revised Code of Washington (RCW)) and Rules (Title 222 Washington Administrative Code (WAC)). However, both WDFW and Ecology have dedicated office and field staff time to support the various functions of the Forest Practices Program and the implementation of the Forest Practices HCP. Their support includes participation in the following:

- The Adaptive Management Program (AMP)
- The Compliance Monitoring Program (CMP)
- The Family Forest Fish Passage Program (FFFPP)
- The review of Road Maintenance and Abandonment Plans (RMAPs)
- The development of chapters in the Forest Practices Board Manual (Board Manual)
- The evaluation of water Type change proposals
- The review of Forest Practices Applications
- Interdisciplinary Teams

Under the Forest Practices HCP, the state has a commitment to submit an annual report to the Services describing the implementation activities. This sixth annual report covers the period from July 1, 2011 to June 30, 2012. The report describes the efforts of the state Department of Natural Resources' Forest Practices Program, and our partners to implement the Forest Practices HCP.

1.2 2012 Report Highlights

Highlights of the Forest Practices HCP implementation from July 1, 2011 through June 30, 2012 include:

General

- In response to a potential challenge to the United States Fish and Wildlife Service and NOAA National Marine Fisheries Service 2006 decisions approving Incidental Take Permits for the Forest Practices HCP, the State negotiated a settlement agreement (Appendix 6) with the Forests and Fish Conservation Caucus and the Washington Forest Protection Association concerning implementation of the *Forest Practices Habitat Conservation Plan*. The settlement agreement establishes a renewed commitment by all parties to collaboration, a streamlined decision making process for the Adaptive Management Program, a more rigorous schedule for Adaptive Management Program scientific research that will inform needed rule changes over time, and a stronger plan for ensuring that the Adaptive Management Program is adequately funded. The settlement agreement also resulted in the State requesting (Appendix 7) and obtaining (Appendix 8) a minor modification to the Forest Practices HCP Implementing Agreement under *Section 7 Funding* of the Implementing Agreement, *paragraph 7.1*. The modification clarified the provisions regarding the minimum funding level for administration of the Department of Natural Resources' forest practices regulatory program and specified a series of procedural steps to follow should funding fall below the minimum threshold.

Forest Practices Board

Rule Adoptions:

- **Road Maintenance and Abandonment Plans (RMAPs)** – The Board adopted changes related to Road Maintenance and Abandonment Plans – WAC 222-24-050 and 222-24-051. The purpose was to give forest landowners the opportunity to extend the performance period for their RMAPs up to five years, or until October 31, 2021.
- **Notice of Forest Practices to Affected Indian Tribes** – The Board amended WAC 222-20-12- *Notice of forest practices to affected Indian tribes*. The rule established an improved process for forest landowners and affected Indian tribes to meet the rule's landowner-tribe meeting requirement when landowner's proposed forest practices may intersect with cultural resources.
- **Critical Habitats of Threatened and Endangered Species** – The Board eliminated the bald eagle and the peregrine falcon critical habitats from WAC 222-16-080 *Critical*

Habitats (state) of threatened and endangered species. The reason for removing these species is that they are no longer listed as threatened or endangered under federal or state laws.

- **Forestry Riparian Easement Program** – The Board adopted rules to carry out 2011 legislation (Engrossed Substitute Bill 1509) that made changes to the Forestry Riparian Easement Program.

Adaptive Management Program

- The Adaptive Management Program caucus representatives continued to work together to seek long-term funding for the program.
- Two projects were completed, approved by the Cooperative Monitoring, Evaluation and Research (CMER) Committee and considered for action by the Policy Committee and Forest Practices Board in 2012: *Results of the Westside Type N Buffer Characteristics, Integrity and Function Study Final Report* and *Evaluation of the Effectiveness of the Current TFW Shade Methodology for Measuring Attenuation of Solar Radiation to the Stream*.
- One draft final report was approved by the CMER Committee to go through Independent Scientific Peer Review in 2012 – *The Mass Wasting Effectiveness Monitoring Project: An examination of the landslide response to the December 2007 storm in Southwestern Washington*.
- The CMER Committee completed a review of the report from Stillwater Sciences—an independent review of the collective contribution and progress from the various CMER research and monitoring studies—and developed a response to the recommendations in the report.
- The Adaptive Management Program completed a LEAN process in an effort to improve program efficiency.
- Forests and Fish Policy Committee initiated discussions on two priority items on its work list: to develop a strategy for Type N Water to examine the effectiveness of the Type N Water rules in protecting water quality; and develop a strategy for transitioning from the interim water typing rule to a permanent rule to ensure protection of fish habitat.
- Electro-fishing was conducted on an Adaptive Management Program research project, *Westside Type N Buffer Effectiveness Study – Soft Rock*. There were no listed-fish encounters.

Forest Practices Operations

- The Forest Practices Program issued guidance to landowners and other stakeholders about the consistent interpretation of the reporting elements for the Road Maintenance and Abandonment Plan annual accomplishment report.

- WDFW regional biologists reviewed more than 6,000 Forest Practices Applications and issued approximately 670 Hydraulic Project Applications (HPA) associated with those applications. WDFW biologists also reviewed more than 3,300 Water Type Modification Forms and participated in field reviews of many streams to validate those proposed water types.

Small Forest Landowner Office

- Family Forest Fish Passage Program (FFFPP) – staff worked with forest landowners to complete 25 fish passage barrier-removal projects this year, opening up 48 miles of fish habitat. Since the beginning of the program in 2003, 218 barriers to fish habitat have been removed, opening up approximately 548 miles of fish habitat.
- In an effort to educate small forest landowners and to promote the program, FFFPP solicited proposals to create a video of FFFPP projects. At least three small forest landowner stories will be filmed and documented for this project.
- DNR hosted a public meeting to collect ideas from interested stakeholders for potential long-term funding sources for the Forestry Riparian Easement Program.
- Forest Stewardship Outreach Program – DNR, in collaboration with Washington State University Extension, co-hosted three ‘Forest Owners Field Day’ workshops. About 250 small forest landowners attended each of the field days.

20-Acre Exempt Riparian Forestland

- The Forest Practices Applications for 20-acre exempt non-conversion proposals along fish-bearing waters comprised approximately 1.7 percent of all approved applications submitted during the 2011-2012 reporting period.
- Of the 846 Watershed Administrative Units (WAUs) in Washington State, 154 WAUs have some possible reduction in the potential recruitment of Large Woody Debris (LWD) (as recorded from June 5, 2006 to June 30, 2012). Of these, all but one, have the potential of less than one percent cumulative reduction in function as measured by LWD recruitment potential. In-office calculations show that Diobsud Creek in the Upper Skagit Watershed Resource Inventory Area (WRIA) has potentially 2.3 percent reduction in function. The impact is “potential” because the calculations are based on “proposed” harvest, not “completed” harvests, and estimates of stream impact are made in-office from information supplied on the application, not on-the-ground measurements.
-

Compliance Monitoring Program

- The *Biennium 2010-2011 Compliance Monitoring Summary Report* was published in April 2012. The study design for 2010-2011 focused on Riparian Management Zone rules for all type waters (WAC 222-30), along with Road Construction and Maintenance rules

(WAC 222-24). The design also included a sample for determining haul route compliance. An additional emphasis sample examined how well water type classification was being implemented. A summary of the report results is provided in Chapter 9.

Road Maintenance and Abandonment Planning (RMAP) for Large Forest Landowners

- Since 2001, 18,738 miles of forest road have been improved to meet state forest practices standards.
- The Forest Practices Program has implemented standardized RMAP data collection and evaluation, and created a reporting process more conducive to stakeholder review, including a Geographic Information System (GIS) database for RMAP information.
- Forest Practices Board Manual Section 3 Guidelines for Forest Roads was amended to add an explanation of the requirements and processes in the RMAP program.
- Since 2001, 4,258 fish passage barriers—about 60 percent of those identified—have been corrected, opening up 2,189 miles of fish habitat.
- Washington State Department of Fish and Wildlife reviewed approximately 650 RMAPs statewide and issued about 400 Hydraulic Project Application (HPA) permits associated with those RMAPs.

Tribal Relations

- WAC 222-20-120 *Notice of forest practices to affected Indian tribes* was amended (a result of consensus recommendations from the Timber/Fish/Wildlife Cultural Resources Roundtable). The amendments to the rule specify that the meeting between the landowner and the affected Indian tribe(s) is “at the tribe’s discretion” and provides two new options to comply with the meeting requirement.
- In anticipation of the amended rule’s emphasis on tribes’ geographic areas of interest and cultural resources contacts—and to increase tribal awareness and participation in all aspects the Forest Practices program—DNR confirmed the following with the tribes:
 - Who the tribe’s preferred contact(s) is for Forest Practices Board rule makings
 - Where the tribe’s geographic area of interest is located for receiving proposed Forest Practices Applications via the Forest Practices Application Review System (FPARS)
 - Who the tribe’s preferred contact(s) is when a forest practice involves a cultural resource

Enforcement

- There were a total of 10,569 approved (non-expired) Forest Practices Applications during the reporting period. During this time, there were 143 Notices to Comply and Stop Work

Orders written. Of these enforcement actions, 95 were for violations to the Forest Practices Rules.

Washington State Legislature

- 2ESSB 6406 legislation integrates hydraulic projects into the Forest Practices Application process.
- ESB 6074 appropriated \$10 million to the Salmon Recovery Funding Board, administered by the Recreation and Conservation Funding Board, specifically to fund correction of fish passage barriers through the Family Forest Fish Passage Program (FFFPP).

Information Technology

- The Forest Practices GIS section entered approximately 3,906 water type updates into the hydrography data set based on 882 Water Type Modification Forms.
- A “Cultural Resources” data folder was added to the Forest Practices Risk Assessment Tool containing links to US Geological Survey maps, US Army Mapping Service maps, and Government Land Office historical maps. These maps can be used by DNR to assist in the investigation of possible cultural resources in the vicinity of proposed forest practices. A map layer also was added that provides the geographic extent of areas of interest for 29 tribes, and tribal contacts regarding cultural resources.

Training

- The Forest Practices Program hired a Training Manager late in the reporting period. Results from both field compliance and enforcement visits as part of the daily work of Forest Practices Foresters, and from the Compliance Monitoring Program will help direct a comprehensive training program for DNR staff, landowners, and other stakeholders.
- The Forest Practices program provided training to forest practices staff and/or stakeholders on topics including enforcement, compliance monitoring, information technology, unstable slopes, channel migration zones, and wetlands.
- DNR region Forest Practices staff completed or sponsored more than 130 training workshops during the reporting period, reaching approximately 2,400 forestry professionals and forestland owners. Topics included wetland identification, water type verification, road maintenance, and unstable slopes.

2. Forest Practices Board

2.1 Introduction

The Forest Practices Board (Board) activities during the July 2011- June 2012 reporting period are explained in this section. The Board adopted rules related to Road Maintenance and Abandonment Plans, the notice to affected Indian tribes regarding forest practices, critical habitats of threatened and endangered species, and the Forestry Riparian Easement Program. The Board also approved revisions to Board Manual Section 3 *Guidelines for Forest Roads*.

2.2 Forest Practices Board Overview

The Board sets the standards that are the basis for the Forest Practices Program. The state's Forest Practices Act established the Board in 1974 as an independent state agency. It directs the Board to adopt rules for forest practices on non-federal and non-tribal forestlands that will protect public resources while maintaining a viable forest products industry. "Public resources" are defined as water, fish and wildlife, and capital improvements of the state or its political subdivisions.

The Board consists of 13 members that include the Commissioner of Public Lands, or the Commissioner's designee, four additional state agency directors or their designees, and eight members appointed by the governor. The represented agencies are the state Departments of Natural Resources (DNR), Commerce, Ecology, Agriculture, and Fish and Wildlife (WDFW). The governor-appointed members include a member representing a timber products union, a forest landowner who actively manages his or her land, an independent logging contractor, an elected county commissioner or council member, and four general public members whose affiliations are not specified in the Forest Practices Act. The membership of the Board as of June 30, 2012 was:

- Bridget Moran, Commissioner of Public Lands Designee, Chair
- Mark Calhoon, Department of Commerce
- Tom Laurie, Department of Ecology
- Jaclyn Ford, Department of Agriculture
- David Whipple, Department of Fish and Wildlife
- Dave Somers, Snohomish County Commissioner
- Bill Little, timber products union representative
- Bob Guenther, general public member and small forest landowner
- Carmen Smith, general public member and independent logging contractor
- Paula Swedeon, general public member
- Norm Schaaf, general public member
- David Herrera, general public member
- Phil Davis, general public member

In addition to adopting rules, the Board approves changes to the Forest Practices Board Manual, an advisory technical supplement to the rules. The manual guides field practitioners and DNR regulatory staff when implementing certain rule provisions. The Forest Practices Rules, together with the Forest Practices Board Manual largely represent the state's protection measures for public resources related to forest lands.

The Board also directs the Adaptive Management Program. This program provides science-based recommendations and technical information to assist the Board in determining if and when it is necessary or advisable to adjust rules and guidance in order to achieve established goals and objectives. The Board empowers four entities to participate in the Adaptive Management Program:

1. Cooperative Monitoring, Evaluation and Research (CMER) Committee
2. Forests and Fish Policy Committee
3. Adaptive Management Program Administrator
4. Scientific Review Committee (SRC)

The Cooperative Monitoring, Evaluation and Research Committee represent the science component of the program and oversees research and monitoring by DNR and other public and private entities.

The Forests and Fish Policy Committee considers CMER Committee research and monitoring findings and makes recommendations to the Board related to Forest Practices Rule amendments and guidance changes. Participation in both the CMER Committee and the Forests and Fish Policy Committee is open to representatives of environmental and forest landowner interests, tribal governments, county governments, and state and federal agencies.

The Adaptive Management Program Administrator is a full-time employee of DNR and is responsible for overseeing the program, supporting the CMER Committee and reporting to the Forests and Fish Policy Committee and the Board.

The Scientific Review Committee performs independent peer review of some CMER work to ensure it is scientifically sound and technically reliable. The Scientific Review Committee may also review non-CMER work, though it does not do so frequently.

2.3 Forest Practices Board Rule Making Activity (July 1, 2011 – June 30, 2012)

Road Maintenance and Abandonment Plans

On August 11, 2011, the Board adopted changes to the rules related to Road Maintenance and Abandonment Plans (RMAPs)—WACs 222-24-050 and 222-24-051. The change gave forest landowners the opportunity to extend the performance period for their projects implementing RMAPs for up to five years, or until October 31, 2021. The Board's rule change followed a

recommendation from the Forests and Fish Policy Committee that included a comprehensive set of recommended improvements to the RMAP program including:

- Improved RMAPs data collection and processes to facilitate stakeholder and DNR review of plans, schedules and accomplishments, leading to improved planning and communication between landowners and DNR,
- The commitment by all participants in the Forest Practices Adaptive Management Program caucuses to seek additional funding to accelerate fish passage improvements on small forest landowner land (via the Family Forest Fish Passage Program) and to help fund barrier removals on county roads.

Concurrent with the rule adoption, the Board approved an amended Board Manual Section 3 *Guidelines for Forest Roads*, which reflected the changes to the RMAPs rules and included changes to RMAPs review and reporting. See section 2.5 in this report, “Board Manual Section 3 *Guidelines for Forest Roads*.”

Notice of Forest Practices to Affected Indian Tribes

The Board amended WAC 222-20-120 *Notice of forest practices to affected Indian tribes* on February 14, 2012. The rule established an improved process for forest landowners and affected Indian tribes to meet the rule’s landowner-tribe meeting requirement when landowners’ proposed forest practices may intersect with cultural resources. The rule title also was amended to *Notice of forest practices that may contain cultural resources to affected Indian tribes* to call attention to the fact that the rule includes requirements for applications that involve cultural resources. This was the result of a Timber/Fish/Wildlife (TFW) Cultural Resources Roundtable recommendation to the Board in May 2011.

At the same time, the Board made a correction to a rule reference in WAC 222-30-021(1)(c)(ii)(VII), the ‘clumping strategy’ subsection of *Western Washington Riparian Management Zones*.

Critical Habitats of Threatened and Endangered Species

On February 14, 2012, the Board eliminated the critical habitat for bald eagle (*Haliaeetus leucocephalus*) and the peregrine falcon (*Falco peregrinus*) from WAC 222-16-080 *Critical Habitats (state) of threatened and endangered species*. This rule lists forest-dependent state threatened and endangered species habitats and specific forest practices that are designated as Class IV-special. The reason for removing these species is that they are no longer listed as threatened or endangered under federal or state laws. However, they continue to receive protection under federal laws: the Bald and Golden Eagle Protection Act and the Migratory Bird Act.

At the same time, the Board also updated the reference to the western pond turtle (*Clemmys marmorata*) to its newly recognized common and scientific names: Pacific pond turtle (*Actinemys marmorata*).

Forestry Riparian Easement Program

On May 8, 2012, the Board adopted rules to carry out 2011 legislation (Engrossed Substitute House Bill 1509) that made changes to the Forestry Riparian Easement Program. Among the rule changes are:

- eliminating non-profit landowners from program eligibility;
- modifying landowner qualifications – at the time compensation is offered for a forest riparian easement, the landowner must be a small landowner; and
- determining the value of the easement based on timber values on the date the complete Forestry Riparian Easement Program application is received.

Land Use Conversions and Forest Practices Applications

The Board is considering rulemaking to integrate recent changes to chapter 76.09 RCW into chapters 222-08, 222-12, 222-16, and 222-20 WAC. This will include:

- Eliminating all references to “lands platted after January 1, 1960.” Proposed forest practices on these lands will not automatically be assumed conversions to a non-forestry use, and therefore will not automatically be classified Class IV-general. (House Bill 1582, [Chapter 207, Laws of 2011](#)).
- Eliminating the six-year moratorium on development when landowners have not stated their intention to convert their forest land to other uses. Replacing it with a new process that includes a “Notice of Conversion to Non-forestry Use.” (Second Substitute House Bill 5883, [Chapter 106, Laws of 2007](#)).
- Increasing the duration of a Forest Practices Application or notification from two to three years. (Second Engrossed Substitute Senate Bill 6406, [Chapter 1, Laws of 2012](#)).

In addition, this rulemaking likely will include clarifications for general purposes in WAC 222-16-050 *Classes of forest practices*, and parts of chapter 222-20 WAC *Application and notification procedures*.

At the August 14, 2012 meeting, the Board may consider draft rules to be distributed for public review, and for which DNR would conduct a public hearing. If so, rule adoption may take place on November 13, 2012.

Pilot Rule Making for Westside Type N Buffer Effectiveness Soft Rock Study

On May 8, 2012, the Board approved a pilot rule to allow for research on the effectiveness of the existing riparian management rules for non-fish-bearing streams in Western Washington. The

research is intended to answer how timber harvesting in Type N basins affects: water temperature, sediment input and storage, suspended sediment and nutrient export to downstream Type F waters, and benthic macroinvertebrate communities immediately downstream of a harvest unit.

The research could result in new rules developed through the Adaptive Management Program process (RCW 76.09.370(6) and WAC 222-12-045).

2.4 Anticipated Forest Practices Board Direction

As indicated in section 2.3, the Board is expected to continue rulemaking to integrate several pieces of recent legislation into chapters 222-08, 222-12, 222-16, and 222-20 of the WAC. In addition, the Board likely will consider actions related to forest biomass, hydraulic project approvals associated with forest practices, the northern spotted owl, and the definition of “forest land” where trees are immediately adjacent to residential structures.

Forest Biomass

In response to public sentiment during the Forest Biomass rule making process during the 2010-2011 reporting period, DNR convened a Forest Practices Biomass Harvest Work Group. This group consists of representatives of the timber and biomass industries, DNR, state and federal natural resource agencies, and the environmental community. Its goal is to develop recommendations for the Board to consider at its August 14, 2012 meeting. The recommendations will address whether additional rulemaking or guidance is needed to protect resources, beyond the protections already provided in the rules.

Hydraulic Project Approvals

SESSB 6406 ([Chapter 1, Laws of 2012](#)) directs the Board to incorporate into the Forest Practices Rules the fish protection standards from Washington Department of Fish and Wildlife (WDFW). The standards are contained in the hydraulic project statutes in title 77.55 RCW and hydraulic project approval rules under chapter 220-110 WAC. The Board’s rule making efforts will involve coordination with WDFW. By law, this rule making must be completed by December 31, 2013, but initial rule-making activities likely will take place during the 2012-2013 reporting period.

The bill also removes RCW 76.09.040 (2)(b). This RCW subsection had required the Board to submit proposed rules to the counties and WDFW for review and comment prior to initiating the rule-making process, and the Board by practice had also included affected Indian tribes.

Additionally, the bill requires the Board to develop technical guidance in the Forest Practices Board Manual by December 31, 2013. The guidance will be developed to assist with implementation of the fish protection standards in the hydraulic project approval rules, and to include best management practices and standard techniques to ensure fish protection.

Northern Spotted Owl

The Board is likely to contemplate a long-term northern spotted owl conservation strategy in the 2012-2013 reporting period. After receiving recommendations from its multi-stakeholder Northern Spotted Owl Policy Working Group during the 2009-2010 reporting period, the Board directed DNR to form a Northern Spotted Owl Implementation Team to answer how Washington can identify areas that can make strategic contributions to spotted owl recovery over time.

Throughout the 2010-2011 reporting period, the implementation team:

- Formed a northern spotted owl technical team consisting of six biologists and four ecological economists. This team is tasked with assessing the spatial and temporal allocation of conservation efforts on non-federal lands using best available science.
- Worked with the U.S. Fish and Wildlife Service to determine how its habitat modeling tools, which were used to create the proposed spotted owl critical habitat designation, may be used to inform the work of the technical team.
- Is convening a project team to help implement the Entiat pilot project. This project is designed to explore the operational and economic feasibility of thinning in overstocked stands to improve spotted owl habitat quality in eastern Washington.

During the 2012-2013 reporting period, the Board will seek input from the Northern Spotted Owl Implementation Team and consider the federal critical habitat rule for the owl (expected to be final in November 2012) to inform possible changes to Washington's critical habitat rule WAC 222-16-080(f).

Trees and Houses

As noted in previous annual reports, in 2008 the Board considered and tabled rulemaking that would exclude from the definition of "forest land" a defined area with trees immediately adjacent to residential structures. The intention was to transfer forest practices jurisdiction over tree removal in these areas from DNR to local governmental entities, but to maintain the Department of Labor and Industries' jurisdiction for public safety purposes. DNR is intending to sponsor legislation to address this issue and the Board will continue to defer rule making until after such legislation is completed.

Board Manual Updates

During the 2012-2013 reporting period, the Board also may consider updating sections of the Forest Practices Board Manual, including but not necessarily limited to:

- A new Board Manual section to assist with implementing the fish protection standards in the hydraulic project approval rules. See 2.4, Hydraulic Project Approvals.
- Section 1 *Method for Determination of Adequate Shade Requirements on Streams*
- Section 7 *Guidelines for Riparian Management Zones*

2.5 Forest Practices Board Manual

The Forest Practices Board Manual is an advisory technical supplement to the Forest Practices Rules that provides technical background and guidance for DNR staff, forest landowners and cooperating agencies and organizations when they implement certain rules.

The Forest Practices Rules direct DNR to develop Board Manual sections, each of which provides guidance for implementing a specific rule or set of rules. DNR develops and makes modifications to the manual sections in consultation with the Washington State Departments of Fish and Wildlife, Agriculture, Ecology and other affected agencies, affected tribes, and interested parties. The development or modification process typically begins with a working group that identifies key elements to be addressed, and drafts language—with DNR in the lead. During this development phase any interested party may comment on a draft. For sections that provide guidance for rules protecting aquatic resources, a final draft is presented to the Forests and Fish Policy Committee for review and approval, after which the Board considers and makes a decision as to whether it is to be included in the manual, or needs revision. At times it may be necessary to present the Board with a final product that represents agreement by a majority of the Forests and Fish Policy Committee, rather than by consensus. In these cases, DNR staff informs the Board of the lack of consensus and provides a briefing on the outstanding issues prior to the Board taking action.

Forest Practices Board Manual Activity (July 1, 2011 – June 30, 2012)

Board Manual Section 3 *Guidelines for Forest Roads*

On August 9, 2011, the Board approved changes to Board Manual Section 3, *Guidelines for Forest Roads* as follows:

- A new section was added to Part 2 to explain the review processes, reporting requirements, and work prioritization requirements.
- Clarification was made in Part 4 (in subpart 4.1) that slash—in addition to clearing debris—should be placed outside the road prism (the area consisting of the road surfaces and any cut slope and road fill).
- Guidance was improved pertaining to drainage structures, added to Part 7.

Board Manual Section 21 *Guidelines for Alternate Plans*

In the fall of 2010, Washington Farm Forestry Association, a small forest landowner advocacy group, presented to DNR and the Small Forest Landowner Advisory Committee a proposal for a new alternate plan template for riparian management. Because there was concern among most stakeholder caucuses that the proposal would not provide for riparian functions, the Forests and Fish state caucus representatives from DNR, the Department of Fish and Wildlife, and the Department of Ecology developed an alternate proposal based on low-impact methods of riparian thinning.

DNR staff presented the resulting draft template to the Board on November 8, 2011. This template combined the existing fixed-width riparian template with a light thinning of the riparian inner zone. This was intended to offer the greater community of small forest landowners the benefit of using it as an alternative to the existing fixed-width riparian alternate plan template.

The Board's motion to approve the template failed, with five Board members in support and five opposed.

3. Adaptive Management Program

3.1 Introduction

This chapter provides a brief background on the Forest Practices Adaptive Management Program (AMP) and accomplishments to date. In large part, those accomplishments occur through the Cooperative Monitoring, Evaluation and Research Committee (CMER) projects. The CMER Committee's work plan presents an integrated strategy for conducting research and monitoring to provide scientific information to support the Adaptive Management Program. Section 3.6 lists websites that give detailed information on the work plan and projects.

Section 3.7 contains information on electro-fishing activities associated with Adaptive Management Program projects. The Services specifically requested this information through the conditions that govern the Incidental Take Permits.

3.2 Adaptive Management Program

In response to water quality and aquatic endangered species issues, the Washington State Forest Practices Board adopted emergency water typing rules in 1996 and salmonid emergency rules in 1998. In addition, in 1997 the governor formed a Joint Natural Resources Cabinet and charged it with creating a salmon recovery plan for Washington State by June of 1998. A "Salmon Recovery Strategy" developed by the state called for the protection of salmon habitat through forest, agriculture and urban modules.

The Joint Natural Resources Cabinet turned to the Timber, Fish, and Wildlife (TFW) organization to develop recommendations for the forestry module. The module would result in a set of recommendations to the Forest Practices Board and the Governor's Salmon Recovery Office to respond to fish listings and water quality problems in Washington State covering about 9.3 million acres of private and state-owned forestland. This module later became the 1999 [*Forests and Fish Report*](#).

The authors of the *Forests and Fish Report* agreed to use all reasonable efforts to support the expeditious implementation of the recommendations contained in it. The authors' commitments, however, were subject to:

- the Washington State Legislature's adoption of a statutory package providing for implementation of the report prior to July 1, 1999;
- the Forest Practices Board's adoption of permanent rules implementing the recommendations of the report;
- the provision of adequate funding for the implementation of the recommendations contained in the *Forests and Fish Report*;
- the receipt of federal assurances relating to the Endangered Species Act and the Clean Water Act; and

- continued support from the authors for the completion of the tasks and implementation of the provisions specified in the report.

The *Forests and Fish Report* recommended an adaptive management program to address the effectiveness of the forest practices prescriptions in meeting resource objectives, the validity of the resource objectives for achieving the overall goals, and basic scientific uncertainties in the ecological interactions among managed forests, in-stream functions, and fish habitat. The 1999 Legislature referenced the 1999 *Forests and Fish Report* in the Salmon Recovery Bill (Engrossed Substitute House Bill 2091), in which it directed the Forest Practices Board to adopt rules that were consistent with the recommendations of the report. Following that direction, the Forest Practices Board adopted an adaptive management program, a formal science-based program.

The purpose of the [Forest Practices Adaptive Management Program](#) is to provide science-based recommendations and technical information to assist the Forest Practices Board in determining if and when it is necessary or advisable to adjust rules and guidance for protecting aquatic resources to achieve resource goals and objectives. The program was created to ensure that programmatic changes will occur as needed to protect resources; to ensure that there is predictability and stability in the process; and to ensure that there are quality controls applied to scientific study design, project execution and the interpreted results.

From 2000-2011, more than \$25 million in federal funding through the Pacific Coastal Salmon Recovery Fund was spent to help implement the 1999 Forests and Fish Report, including funding for development of an Adaptive Management Program, a multi-landowner Forest Practices Habitat Conservation Plan, and information systems; for designing and implementing research and monitoring projects, workshops, and science conferences; and for field implementation of Forest Practices Rules related to aquatic resources.

A significant outcome of the federal funding was the establishment and implementation of the Forest Practices Adaptive Management Program covering aquatic species on state and private forestlands in Washington State. The Adaptive Management Program is governed by an official state rule-making body (the Forest Practices Board), and includes a policy committee and a science committee. As significant as the program itself was the unique model of collaborative decision-making used in developing the program. In addition, an independent scientific peer review process was established to ensure the rigor and integrity of the adaptive management research and monitoring projects and reports.

Another significant outcome of the federal funding was the early emphasis on developing ‘rule tools’—projects designed to develop, refine or validate tools (or methods and protocols) used to implement the Forest Practices Rules that support the 1999 *Forests and Fish Report*. These projects have helped define, test, or refine protocols, models, and guides that allow the identification and location of rule-specified management features, such as the Last Fish/Habitat Model (a method for evaluating streams for typing), landslide screens, or the achievement of specified stand conditions, such as the ‘desired future riparian condition’ basal area target (DFC). Target verification projects were designed to confirm riparian function performance targets

developed during Forests and Fish Report negotiations that authors identified as having a weak scientific foundation, such as the desired future condition basal area targets for Type F streams.

A report entitled *Monitoring Design for the Forestry Module* of the Governor's Salmon Recovery Plan, July 2002, was commissioned by Forests and Fish Policy Committee to "develop a comprehensive framework for collection, analysis and interpretation of data related to effectiveness monitoring" for rules derived from the 1999 *Forests and Fish Report*. The report is a conceptual framework for a coordinated monitoring plan with examples of how specific types of monitoring could be conducted and how an effective monitoring program could be structured.

Development of the 1999 *Forests and Fish Report* and subsequent Washington State laws and Forest Practices Rules were based on the best available science at the time. Both the report and the rules were developed in a collaborative, transparent process, with many stakeholders involved. Another outcome of providing funding for establishment and support for the Forest Practices Adaptive Management Program is the continued participation by many stakeholders, including tribes and tribal organizations, state agencies, federal agencies, landowner groups, counties, and the conservation caucus. The open, transparent, collaborative process continues to be used in the Adaptive Management Program to review and revise Forest Practices Rules, and other guidance on state and private forest lands based on research and monitoring projects and other information.

The Forest Practices Adaptive Management Program research and monitoring efforts that were funded already have led to revisions in the Washington State Forest Practices Rules and in guidance to small forest landowners. For example, the rules containing the target threshold for the riparian desired future conditions basal area have been revised; and a small landowner fixed-width buffer template has been developed in cooperation with small landowner representatives and added to the Forest Practices Board Manual.

3.3 Cooperative Monitoring, Evaluation and Research Committee History

The Cooperative Monitoring Evaluation and Research Committee (CMER) represents the science component of the Adaptive Management Program and oversees research and monitoring. The CMER Committee work plan describes the various research and monitoring programs, associated projects and work schedule. Schedule L-1 from the [*Forests and Fish Report*](#) (U.S. Fish and Wildlife Service, 1999) and a revised Board-approved Schedule L-1 (2001) serve as the foundation for the work plan, and more specifically guide the development of projects described in the [2013 CMER Work Plan](#).

It is likely that research and monitoring priorities will change over time as adaptive management proceeds, new information becomes available, and ways are found to use the information to improve forest practices. Major research priorities presented in the CMER work plan have not changed substantially at the program level since the most-recent prioritization in 2002. However, at the project level some reprioritization has taken place to answer questions related to Clean Water Act (CWA) assurances in a timelier manner. While at the discretion of the Board, changes

to resource objectives, performance targets and research and monitoring priorities typically would be reviewed and agreed to by the Forests and Fish Policy Committee.

While the first few years of the Adaptive Management Program focused on rule tools, in the last few years, the program has focused much of its effort on effectiveness monitoring and extensive (status and trends) monitoring projects. The effort to more-fully integrate research and monitoring across spatial and temporal scales is ongoing and will continue in Fiscal Year (FY) 2013 (July 1, 2012 to June 30, 2013).

Several of the Adaptive Management Program caucus representatives (tribes, state and federal government, large and small forest landowners, and conservation groups) have worked together over the last three years (FY10, 11 and 12) to seek long-term funding for the program.

Additionally, in FY10 the program submitted to the federal Environmental Protection Agency three funding proposals for research and monitoring. A proposal for partial funding of a Type N buffer effectiveness project—emphasizing water temperature and sediment delivery—was chosen by EPA for funding in early FY11, and an EPA-required Quality Assurance Project Plan was developed and approved by CMER in late FY11.

3.4 CMER Work Plan and Activities

The CMER work plan is intended to inform participants, the Forest Practices Board, the Forests and Fish Policy Committee and the public about CMER activities. The [2013 CMER Work Plan](#) can be found on the “[Forest Practices Adaptive Management Program](#)” web page (see section 3.6 below) under the “Files” header. The current 2012 CMER work plan contains more than 90 projects. Approximately 32 projects have been completed and 24 projects are ongoing (i.e., undergoing study design development, or being implemented or reviewed). The CMER Committee work plan is updated annually.

The programs in the work plan originally were prioritized based on the level of scientific uncertainty and resource risk as related to the priorities of Schedule L-1 in the *Forests and Fish Report* (U.S. Fish and Wildlife Service, 1999) and incorporated into the Forest Practices HCP (Washington DNR, 2005). CMER projects address the needs of higher priority programs first to ensure that the most important questions about resource protection are answered before the questions with lower scientific uncertainty or lower resource risk. Projects were re-prioritized in 2010 to focus over the next few years on Clean Water Act assurances. The plan is a dynamic document that is revised annually in response to research findings, changes in the Forest Practices Board and Forests and Fish Policy Committee objectives, and available funding.

CMER takes on many other ad hoc projects in addition to their normal course of business. One project taken on in FY10 included developing a table that shows how resource goals, objectives and performance targets are addressed by the studies found in the CMER work plan. The table can be found beginning on page 183 in Fiscal Year [2013 CMER Work Plan](#) (Washington Cooperative Monitoring, Evaluation, and Research Committee, 2012). For each project, the table displays the status, task type, goals, resource objectives, and performance targets addressed by the project. Construction of this table has allowed the committee to review all of its projects in a

comprehensive way. It provides valuable information to the Policy and CMER committees for their assessments and decisions about where to focus efforts. It also helps answer questions about the balance of types of research and monitoring undertaken, e.g., ‘rule tools’ vs. monitoring. The table is revised annually.

In the Fiscal Year 2013 CMER Work Plan, under each research and monitoring program is a section titled “Link to Adaptive Management.” This section was added to the work plan primarily to help the Forests and Fish Policy Committee and the Board understand how critical questions are being addressed by the projects. Knowledge gained, identified gaps, and recommendations for addressing gaps are discussed for each critical question. The “Link to Adaptive Management” section is updated annually as projects are completed. The intent is to have this section completed for every program within the work plan.

Two projects were completed, approved by the CMER Committee and considered for action by the Policy Committee and Board in FY12. The projects were:

- Results of the Westside Type N Buffer Characteristics
- Integrity and Function Study Final Report
- Evaluation of the Effectiveness of the Current TFW Shade Methodology for Measuring Attenuation of Solar Radiation to the Stream

The Policy Committee did not recommend changes to rules resulting from the reports; however, they did recommend changes in guidance to landowners in the Board Manual related to road maintenance and abandonment planning—which the Forest Practices Board approved—based on results from the Washington Road Sub-basin Scale Effectiveness Monitoring First Sampling Event (2006-2008), a report completed in FY11.

One other draft final report was approved by CMER to go through Independent Scientific Peer Review (ISPR) in FY12. The draft report was “The Mass Wasting Effectiveness Monitoring Project: An examination of the landslide response to the December 2007 storm in Southwestern Washington”. The report has been revised based on Independent Scientific Peer Review (ISPR) reviewer comments, but CMER has not yet accepted the report as final.

The status of “[Active CMER Projects](#)” can be found on the Forest Practices Adaptive Management Program web-page under “related links” (See section 3.6). There also is a link to final reports for completed projects under this same header. Agendas of CMER and Forests and Fish Policy Committee meetings can be found under “related links” on the [CMER webpage](#).

3.5 Forests and Fish Policy Committee Activity (July 1, 2011 – June 30, 2012)

General Policy Activity

The Forests and Fish Policy Committee held a budget meeting in April 2012 and reviewed the Fiscal Year 2013 CMER Work Plan and budget. The Forest Practices Board approved the work plan and budget at its May 2012 meeting. Most of the FY13 research and monitoring projects have been in place for at least a year, with many likely to be completed by the end of FY13. CMER will implement one new project in the field in early FY13 and the CMER Work Plan

proposes implementing the scoping and study design phase of two new projects during the year CMER completed two project reports, described above. Neither study resulted in a Forests and Fish Policy Committee action or recommendation to the Board. Those study results, and results of studies completed in the next two years, will be considered for potential rule- or Board-guidance changes.

As reported in the 2009 Forest Practices HCP Annual Report, during 2008 a considerable amount of Policy Committee time was devoted to developing an Adaptive Management Program Strategic Plan (Plan) (Washington DNR, 2008). The Plan has goals to address four major topic areas:

1. Adaptive Management Program efficiency and effectiveness
2. Caucus relationships
3. Program funding and communications
4. Research capability and knowledge

The Policy and CMER committees worked on the goals on many fronts.

Relative to the first goal, it has been about 12 years since the 1999 *Forests and Fish Report* was completed and 10 years since the adoption of revised Forest Practices Rules (“rules”) based on that report. Substantial investments have been made in a science-based program to provide relevant and timely information for the Adaptive Management Program, as intended by the 1999 report and required by the rules. These collective efforts—organized and implemented by the CMER Committee—have attempted to address all the information needs and priorities set forth by the Adaptive Management Program. In spring 2009, Stillwater Sciences completed the first independent review of the collective contribution and progress from the various CMER research and monitoring studies, and offered recommendations. CMER reviewed the report and developed a response to the recommendations in FY12.

In an effort to improve program efficiency, Policy Committee participants recommended that the Board direct the Adaptive Management Program to review its methods using LEAN process improvement methodologies. In FY12, the program conducted an “opportunity assessment” using a LEAN consultant to determine which program processes were most suitable for LEAN reviews. The program chose to conduct a review on the CMER Committee processes for developing, reviewing, and approving scoping documents and project study designs. The LEAN review was conducted and CMER agreed to carry out a pilot on two- to- three studies on its project list using the process that had been developed.

The recent recession had severe negative effects on lumber and timber markets. As a result, working with the governor’s office, forest landowners requested that the Policy Committee consider extending the time period for completing work on projects to meet Road Maintenance and Abandonment Plan (RMAP) commitments, which would also reduce the annual cost of the RMAP program. The Governor’s Office was particularly interested in providing support to the Family Forest Fish Passage Program, and also to assess the risk for small forest landowner roads. A Policy Committee sub-group worked with the Governor’s Office and caucuses on funding

alternatives to accelerate the Family Forest Fish Passage Program, assess the roads, and work collaboratively to seek additional funding for small landowner and county fish passage barrier repair.

The Forest Practices Board considered a recommendation by the Forests and Fish Policy Committee to extend the RMAP deadline, and modify the Board Manual. The Board approved draft rules language at its May 2011 meeting and adopted the final rule proposal in August, amending WAC 222-24-050 and 222-24-051. The amended rules became effective on October 3, 2011.

The Policy Committee initiated discussions on two priority items: development of a Type N Water strategy and development of a strategy for transitioning from the interim water typing rule (Type F/N Water break) to a permanent rule to ensure protection of fish habitat. Developing the Type N Water strategy is the Policy Committee's highest priority. The purpose of the strategy is to examine the effectiveness of the Type N Forest Practices Rules in protecting water quality including:

- ranking and funding Type N Water studies as highest priorities for research,
- resolving issues associated with identifying the uppermost point of perennial flow, and
- completing a comprehensive literature review examining the effects of buffering headwater streams.

Clean Water Act Assurances

Upon the completion of the *Forests and Fish Report* in 1999, the Washington State Department of Ecology (Ecology) and the Environmental Protection Agency agreed to provide Clean Water Act assurances to the State of Washington for a period of ten years. It was assumed ten years would be sufficient time to determine if implementation of the revised rules and Forest Practices program—including adaptive management—were effective in meeting water quality standards, or putting impaired waters on a trajectory to meeting standards. Ecology reviewed the Forest Practices Program to determine if the Clean Water Act assurances should be retained and produced a report of their findings in July 2009. On Ecology's webpage [Non-point pollution from Forestry](#), click on: [2009 Clean Water Act Assurances Review of Washington's Forest Practices Program](#) (Washington State Department of Ecology 2009). This report was transmitted to the Forest Practices Board in October 2009.

The report concluded that while much has been accomplished, much remains to be done. In particular, Adaptive Management Program research and monitoring projects designed to determine if the rules are effective in meeting water quality standards are not yet complete. Consequently, Ecology was unable to determine the effectiveness of the rule. The report contained milestones of accomplishments related to the Adaptive Management Program deemed important for Clean Water Act assurances, including a schedule for individual research and monitoring projects. The assurances document also identified some operational milestones that needed to be implemented. Ecology conditionally extended Clean Water Act assurances based on the need to satisfactorily accomplish the milestones. DNR established a project management tracking system for the 22 milestones. The Adaptive Management Program Administrator was

lead on six and co-lead on one of the 22 Clean Water Act milestones. Four of the seven Adaptive Management Program- related milestones have been completed. The remaining three program-related milestones are in various stages of completion.

Forests and Fish Policy Committee Priorities for Fiscal Year 2012-13

The Forests and Fish Policy Committee prioritized their work list in fall 2011 and submitted a letter to the Board in November 2011. Subsequent to that, the 2012 Washington Legislature passed a bill (2ESSB 6406) integrating hydraulic project permits currently regulated by Washington Department of Fish and Wildlife into the associated Forest Practices Application, administered by DNR.

In addition, the State negotiated a settlement agreement with the Forests and Fish Conservation Caucus and the Washington Forest Protection Association concerning the 2006 *Forest Practices Habitat Conservation Plan (Appendix 6)*. The settlement agreement establishes a renewed commitment by all parties to collaboration, a streamlined decision making process, a more rigorous schedule for scientific research that will inform needed rule changes over time, and a stronger plan for ensuring that the Adaptive Management Program is adequately funded. Both the integration of the hydraulic project permits and the settlement agreement will require action by the Policy Committee and, potentially, the Forest Practices Board. Consequently, Policy's work list is a dynamic document. Priority work items now include:

1. Implementing high priority Clean Water Act assurance milestones identified in Ecology's July 2009 review, including completion of the Type N Water strategy discussed above;
2. Developing permanent water typing rules;
3. Integrating hydraulic project permits previously administered by the Washington Department of Wildlife into the Forest Practices Permits administered by DNR;
4. Improving Adaptive Management Program processes and developing a master schedule of CMER projects based on the recently signed settlement agreement related to the Forest Practices HCP; and
5. Implementing other high priority tasks in the Adaptive Management Plan strategic plan.

3.6 Adaptive Management Program Websites

Refer to the following websites (underlined) for more information about the Adaptive Management Program.

Adaptive Management Program:

http://www.dnr.wa.gov/BusinessPermits/Topics/FPAdaptiveManagementProgram/Pages/fp_am_program.aspx

CMER:

<http://www.dnr.wa.gov/AboutDNR/BoardsCouncils/CMER/Pages/Home.aspx>

- [Active CMER Projects:](http://www.dnr.wa.gov/BusinessPermits/Topics/FPAdaptiveManagementProgram/Pages/fp_cmer_active_projects.aspx)
http://www.dnr.wa.gov/BusinessPermits/Topics/FPAdaptiveManagementProgram/Pages/fp_cmer_active_projects.aspx.
- [Completed CMER Projects:](http://www.dnr.wa.gov/BusinessPermits/Topics/FPAdaptiveManagementProgram/Pages/fp_cmer_completed_projects.aspx)
http://www.dnr.wa.gov/BusinessPermits/Topics/FPAdaptiveManagementProgram/Pages/fp_cmer_completed_projects.aspx

3.7 Electro-fishing Report

One of the conditions of the federal Services' Incidental Take Permits relates to electro-fishing. Electro-fishing is used to determine if listed fish species are in a stream. A shocking device is used to stun fish so they can be counted. United State Fish and Wildlife Service and NOAA Fisheries asked for an accounting of any electro-fishing related to Adaptive Management Program research.

Electrofishing Activity

Only two projects have incorporated electro-fishing as part of a research project. One is the ongoing project (Type N Experimental Buffer Study – Hard Rock) that was reported in the 2011 Forest Practices Annual Report. The other is a new project (Westside Type N Buffer Effectiveness Study – Soft Rock) involving electro-fishing related to Adaptive Management Program research between July 1, 2011 and June 30, 2012.

**Electrofishing Conducted for Adaptive Management Research
Pre- and Post-Activities Report, FY2007
(as required under the Incidental Take Permit for the Forest Practices HCP)**

Pre Electro-fishing

1. Name of project: Type N Experimental Buffer Study – Hard Rock

Date of project implementation for 2010 field season: July-October, 2010

Primary contact for project: Bill Ehinger/Marc Hayes

Names of watersheds where surveys will be conducted:

Extreme headwater tributaries to: Willapa River, North River, Wishkah River, Clearwater River, Humptulips River.

2. Estimate the number of listed fish or miles of listed-species habitat affected by electro fishing activities:

0 miles.

3. Provide names and qualifications of the staff, contractors, or cooperators who will be supervising the field work:

Aimee McIntyre, Project Technician, Washington State Department of Fish and Wildlife.
Jason Walter, Senior Aquatic Research Technician, Weyerhaeuser Company.

4. Provide a copy of the operating protocols designed to reduce effects to listed fish while maintaining the efficiency of the surveys and monitoring (operating protocol includes guidelines by National Marine Fisheries Service (NMFS 2000) and any subsequent updates):

None required. No sampling in streams containing listed fish.

Post Electrofishing

1. Document the length of stream-survey and electrofishing activity:

800 meters total stream length sampled twice yearly.

2. Document any listed-fish encounters:

None.

3. Document any effects that rose to the level of incidental take (harm to habitat or listed species) including mortality:

None.

4. List the apparent condition of all listed fish specimens encountered:

N/A

=====

**Electrofishing Conducted for Adaptive Management Research
Pre- and Post-Activities Report, FY2012
(as required under the Incidental Take Permit for the Forest Practices HCP)**

Pre Electrofishing

1. Name of project: Westside Type N Buffer Effectiveness Study – Soft Rock

Dates of project implementation: 4/3/12, 4/11/12, 4/19/12

Primary contact for project: Bill Ehinger/Mark Hicks

Names of watersheds where surveys will be conducted:

Extreme headwater tributaries to: Elochoman River, Bear Branch, West fork of the Grays River.

2. Estimate the number of listed fish or miles of listed-species habitat affected by electro fishing activities:

360 meters.

3. Provide names and qualifications of the staff, contractors, or cooperators who will be supervising the field work:

Welles Bretherton, Technician, Washington State Department of Ecology. Megan MacClellan, Specialist, Washington State Department of Ecology. Eric Lund, Wildlife Biologist, Washington State Department of Fish and Wildlife.

4. Provide a copy of the operating protocols designed to reduce effects to listed fish while maintaining the efficiency of the surveys and monitoring (operating protocol includes guidelines by National Marine Fisheries Service (NMFS 2000) and any subsequent updates).

Post Electrofishing

1. Document the length of stream-survey and electrofishing activity:

1859 meters.

2. Document any listed-fish encounters:

None.

3. Document any effects that rose to the level of incidental take (harm to habitat or listed species) including mortality:

N/A

4. List the apparent condition of all listed fish specimens encountered:

N/A

***Make sure to submit any Federal and State permits that were obtained.**

4. Forest Practices Operations

4.1 Introduction

Forest Practices Operations is responsible for administering and enforcing the Forest Practices Rules on approximately 9.3 million acres of private, state, and other non-federal public forestlands. These rules provide protection for public resources defined as: water, fish, wildlife, and capital improvements of the state or its political subdivisions. These rules provide some of the highest standards for resource protection on forestlands in the nation. The rules cover practices such as timber harvest, pre-commercial and commercial thinning, road construction, forest fertilization, and forest chemical application. They give direction on how to implement the state Forest Practices Act.

4.2 Forest Practices Activities

Forest Practices Operations consists of both office and field staff. Statewide there are about 91 positions—the majority of staff are full-time, though some currently are vacant due to budget reductions. Of the 91 positions, 56 are assigned in the field and are directly responsible for reviewing, complying, and enforcing the Forest Practices Act and Rules.

For the reporting period of July 1, 2011 through June 30, 2012 Forest Practices Operations staff processed 5,299 new applications/notifications. The table below provides a breakdown of this information, by DNR region.

Decisions for Applications Received or Renewed During Fiscal Year 2012

Region	Renewal	Approved	Closed	Disapproved	Validated	Total by Region
South Puget Sound	26	693	45	25	0	789
Pacific Cascade	131	1,896	47	10	1	2,085
Olympic	42	518	33	19	0	612
Southeast	16	245	12	7	1	281
Northwest	32	666	5	62	0	765
Northeast	76	642	22	19	8	767
Total by Decision	323	4,660	164	142	10	5,299

Closed means the application/notification was withdrawn by the applicant.

Validated means the department's agreement that a small forest landowner has correctly identified and classified resources, and satisfactorily completed a roads assessment for the geographic area described in Step 1 of a long-term application.

During this same reporting period there were a total of 10,569 applications/notifications statewide that were current, i.e. approved for operations.

4.3 Priorities

Forest Practices Operations has three primary objectives: processing applications, compliance, and enforcement of forest practices activities. Priorities are based upon ensuring that these three objectives are met. This chapter will focus on the priorities that have had the greatest impact on Operations during this reporting period.

DNR's Strategic Plan 2010 – 2014: *The Goldmark Agenda* (DNR 2010) - Goal II *Improve Forest Practices Rules and Strengthen Implementation and Compliance*

The Strategic Plan has identified two major initiatives to be achieved by Operations over the next five years:

- Ensure the Forest Practices Rules are fully, fairly, and consistently implemented and enforced by DNR staff.
- Improve landowner compliance with the Forest Practices Rules. One component of this initiative is to provide training. Operation's goal is to develop and implement additional forest practices training for private land-owners and operators.

Each of these initiatives is associated with numerous action strategies that will need to be achieved in order to be successful. The following action strategies must be completed:

- Complete the Clean Water Act assurances milestones to develop a plan and timeline for improving compliance with the Forest Practices Rules. See milestone #12 (30% complete) and milestones #17 and #19 (95% complete) in Appendix 1 for a full description.
- Continue developing new curriculum for the training program for DNR staff and external stakeholders. DNR expects to provide training on water typing in 2012 and 2013. For more information see Chapter 10, Training/Education/Information.

Department of Ecology's 2009 Clean Water Act Assurances Review

WAC 222-12-010 states: 'Promulgation of all forest practices rules shall be accomplished so that compliance with such forest practices rules will achieve compliance with the water quality laws.' All Forest Practices Rules that are marked with an asterisk (*) pertain to water quality and can only be adopted or amended with agreement by the Department of Ecology. Ecology granted Clean Water Act assurances in 1999 as part of the Forests and Fish Report. The assurances established that the state's forest practices rules and programs, as updated through a formal adaptive management program, would ensure compliance with the state's water quality standards. These assurances were reviewed after a ten-year period in 2009 to determine whether the rules are providing the required level of protection.

Ecology's report is at this link, <http://www.ecy.wa.gov/programs/wq/nonpoint/ForestRules.html>. Click on: [2009 Clean Water Act Assurances Review of Washington's Forest Practices Program](#), (Washington State Department of Ecology, 2009). Based upon the reviews' findings, the assurances were conditionally extended provided specific actions—identified as *milestones*—are achieved by specific dates. In all, there are twenty-two milestones identified for completion by Forest Practices participants. Progress is being made on the milestones in spite of a challenging state budget. Once budget constraints are eased, DNR anticipates that the completion rate can improve. Forest Practices Operations, including the Compliance Monitoring Program, have twelve Clean Water Act milestones to address. Seven milestones have been completed and three are very near completion. See Appendix #1 for a description and current status of the CWA Milestones.

Forest Practices Program Guidance

Forest practices guidance supplements the Forest Practices Rules and Board Manual. The complexity of the rules, details of program administration and variability in the forested environment often pose unique challenges for landowners and DNR staff in implementing the rules across the landscape. Situations commonly arise in which neither the rules nor the Board Manual provide enough specificity to resolve a particular implementation issue. Therefore, DNR develops internal guidance that provides direction consistent with established program goals, resource protection objectives and performance targets. New guidance or changes to existing guidance are communicated to region forest practices staff in writing. Any guidance that affects cooperating agencies, organizations and landowners is shared outside of the agency.

DNR created several guidance documents between July 1, 2011, and June 30, 2012. The following is a summary description of the written guidance that has been shared with the forest practices staff:

Summary of Written Guidance Issued to DNR Staff July 1, 2011 – June 30, 2012

Date	Reason for guidance	Accomplishment
7/15/2011	Road Maintenance and Abandonment Plan (RMAP) Statewide Accomplishment Report	Provides DNR and stakeholders consistent interpretation of reporting elements on the RMAP accomplishment report.
7/20/2011	House Bill 1582	Describes process that DNR is to use to classify a Forest Practices Application as a conversion activity.
8/26/2011	Interim Bald Eagle	Removes Bald Eagle and Peregrine Falcons from WAC-222-16-080. Provides guidance to DNR for processing while Forest Practice Board initiates rulemaking.

Date	Reason for guidance	Accomplishment
9/23/2011	Enforcement Action Guidance	Provides issuance of operational framework to DNR field staff to provide fair and consistent enforcement actions.
2/16/2012	Precipitation and forecast stream flow for 2012 fish survey season	Predicted drought to be expected to be a factor in accurately determining fish presence or absence in some parts of Washington State.
3/16/2012	Implementation of Critical Habitat and Notice of forest practices to affected Indian tribes.	Provides guidance to DNR regarding processing of critical habitat in the Forest Practices Application. Critical habitat replaces interim bald eagle guidance dated 8/26/2011. Notice of forest practice to affected Indian Tribes provides clear expectations regarding how to conduct a landowner/tribal meeting and required documentation.
4/16/2012	Class IV SEPA review	Adds U.S. Geological Survey Quadrangle maps and Bureau of Land Management General Land Office maps to the DNR Forest Practices Risk Assessment Tool. This provides another tool to identify and address potential impacts to cultural resources when evaluating Class IV special Forest Practices Applications during SEPA review.
6/28/2012	Forest Practice Application time periods and fees	Provided DNR guidance for implementation of 2ESSB 6406.
6/28/2012	2ESS Bill 6406 Implementation	A memo for stakeholders describing the increase in Forest Practices Application fees and three year application which starts July 10, 2012. Between July 10, 2012 and July 1, 2013 Forest Practices Application fees may be applied to a replacement application as long as it is within 45 days of decision date. Division has asked the Regions to track incomplete, disapproved and withdrawn Forest Practices Applications.

WDFW contribution to Forest Practices Operations

WDFW also provides a crucial role in Forest Practices operational issues. In FY12, WDFW regional biologists reviewed over 6,000 Forest Practices Applications and issued approximately 670 Hydrology Permit Applications associated with those FPAs. Many HPAs include multiple projects or locations that need to be specifically reviewed and conditioned; for the 670 HPAs issued, there were approximately 1,100 projects or locations. Other forest practices operational work conducted by WDFW biologists included: review of over 3,300 Water Type Modification Forms and participation in field reviews to validate those proposed water types; review and technical assistance on alternate plans for both large and small forest landowners; assisting small forest landowners with stream typing, technical assistance on aquatic resource protection and road issues, site reviews, and review and assistance on completion of long-term plans.

5. Small Forest Landowner Office

5.1 Introduction

The Small Forest Landowner Office (SFLO) serves as a resource and focal point for small forest landowner concerns and policies. Its mission is to promote the economic and ecological viability of small forest landowners while protecting public natural resources. The office was created as a result of the 1999 Salmon Recovery Act, when the Forests and Fish Rules were passed. These new Forest Practices Rules resulted in increased size of riparian buffers and created further measures to protect water quality and restore salmon habitat in the forests of Washington State. The State Legislature recognized that the Forests and Fish Rules would have a disproportionate economic effect on small, family-owned forests. To help small landowners retain their forestland and not convert the land to other land uses, the legislature authorized the creation of a Small Forest Landowner Office within DNR.

This chapter describes the accomplishments, opportunities and challenges of the Small Forest Landowner Office, primarily regarding the two small forest landowner incentive programs: the Forestry Riparian Easement Program (FREP); and the Family Forest Fish Passage Program (FFFPP). These two programs are managed by the Small Forest Landowner Office and its partners to assist small forest landowners. A third program now administered by the office, which assists both small and large forest landowners, is the Rivers and Habitat Open Space Program (R&HOSP). The description of the program can be found in chapter 7 of this report.

The SFLO saw significant staffing changes during the reporting period. In addition to a new manager, the office hired a Grant Writer/Outreach Specialist. The efforts of this position also are included in this chapter.

5.2 Forestry Riparian Easement Program

Provisions included in the 1999 Salmon Recovery Act established the Forestry Riparian Easement Program (FREP). The easement program acknowledges the importance of small forest landowners and the contributions they make to protect wildlife habitat and water quality.

The Forestry Riparian Easement Program compensates eligible small forest landowners for “qualifying timber” in exchange for a 50-year easement. ‘Qualifying timber’ includes those trees that the landowner is required to leave unharvested as a result of Forest Practices Rules protecting Washington’s aquatic resources. Landowners cannot cut or remove any qualifying trees during the life of the easement. The landowner still owns the property and retains full access, but has “leased” the trees and their associated riparian function to the state. Funding for the program has been allocated by the Washington State Legislature since 2002.

Changes to the Forestry Riparian Easement Program

As the result of recommendations made through the Office of Financial Management, the 2011 Legislature passed ESHB 1509 that amended the program to:

- Define and establish eligibility for qualifying small forest landowners for the Forestry Riparian Easement Program. At the time compensation is offered for a forestry riparian easement, the landowner must be a small landowner,
- Remove non-profit organizations from program eligibility,
- Expand the definition for qualifying timber to include forest trees associated with an approved Forest Practices Application that cannot be harvested according to Forest Practices Rules on areas of potentially unstable slopes or landforms with the potential to deliver debris to a public resource or threaten public safety,
- Limit compensation for timber on potentially unstable slopes or landforms to \$50,000 for each landowner during a biennial funding period,
- Require DNR's Small Forest Landowner Office to determine the value of the easement based on timber values on the date the complete Forestry Riparian Easement Program application is received (however, no more than 50 percent of the funds may be used).
- Change the date that the 50-year easement term begins to the date the completed easement application is received, rather than the date the Forest Practices Application pertaining to the easement area is received by DNR.
- Expand the authority for DNR to reimburse qualifying landowners to include preparation costs for a Forestry Riparian Easement (e.g. geotechnical reports, stewardship plans),
- Require reimbursement from the selling landowner to DNR for the full amount of compensation for the Forestry Riparian Easement if the easement land is sold to a non-qualifying landowner within the first 10 years of compensation, and
- Direct the chair of the Forest Practices Board to form a group of stakeholders to investigate and recommend potential new long-term funding sources for Forestry Riparian Easement Program and report to the legislature by May 31, 2012.

In response to the legislation, the Forest Practices Board adopted a rule, consistent with ESHB 1509, that amends the Forestry Riparian Easement Program rules (in chapter 222-21 WAC). The Small Forest Landowner Office will have the procedures in place to acquire easements under the revised program by August 1, 2012.

DNR, at the request of the Board chair, hosted a public meeting on February 8, 2012 to collect ideas for possible Forestry Riparian Easement Program funding sources from interested stakeholders. A follow-up meeting was held on March 26, 2012 with staff from the Office of Financial Management and a subset of those stakeholders attending the February 8 meeting.

After careful consideration of stakeholder comments, DNR's experience implementing the program over the last eleven years, and the stated intent from chapter 76.13 RCW, the Board

chair recommended legislative consideration of three potential permanent long-term funding sources for the Forestry Riparian Easement Program.

1. Continued appropriation of capital budget funding for the FREP. This will fulfill the State's contributions to assist small forest landowners in meeting their obligations to the Forests and Fish law, as outlined in chapter 76.13.120 RCW .
2. Redirect existing funds through any one or more potential options including the Forests and Fish Support Account and Aquatic Land Enhancement Account.
3. Create new revenue sources to fund the Forestry Riparian Easement Program, such as Real Estate Excise Tax surcharges on Transfer of Development Right transactions, a new state lottery game, or vehicle or driver's license "opt out" fee.

The Table on the following page shows a summary of the Forestry Riparian Easement Program's capital budget.

**Department of Natural Resources
Small Forest Landowner Office
Forestry Riparian Easement Program
Capital Budget Summary**

	FY 2002-2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	Totals
Holdovers from Waiting List *	-	56	91	110	112	65	75	79	
Applied during FY*	143	69	59	44	28	10	16	17	386
Total Applicants on List in FY*	143	125	150	154	140	75	91	96	
Easements Purchased	87	34	40	42	75	0	12	0	290
Waiting List*	56	91	110	112	65	75	79	96	
Amount Appropriated	\$7,750,000	\$8,000,000		\$10,300,000		\$0	\$1,000,000	\$1,000,000	\$28,050,000
Amount used for Administration of Program		\$300,000		\$560,000		\$0	\$0	\$0	\$860,000
Amount Spent	\$7,097,350	\$2,892,000	\$4,808,000	\$4,079,000	\$5,500,000	\$0	\$929,000	\$0	\$25,305,350
Acres Purchased	1,481	602	857	804	1,049	0	148	0	4,941
Amount Remaining	\$652,650	\$0	\$0	\$0	\$161,000	\$0	\$71,000	\$1,000,000	
Average Value of Easement per FY	\$81,579	\$85,059	\$120,200	\$97,119	\$73,333	\$0	\$77,417	\$0	
Cumulative Average Value of Easement	\$81,579	\$82,557	\$91,909	\$92,987	\$87,685	\$87,685	\$87,260		
Amount Requested from Legislature	\$10,000,000		\$13,050,000		\$13,800,000		\$10,000,000		

Dollar values include all costs associated with the easement acquisition process.

*Number of FREP applications

FREPSummary09 2711.docx

5.3 Family Forest Fish Passage Program

The Washington State Legislature established the Family Forest Fish Passage Program (FFFPP) in 2003 (RCW 76.13.150). Eliminating fish passage barriers can be costly. The program was developed to provide regulatory and monetary relief for small forest landowners to comply with the Forests and Fish Rule requirement for the removal of fish passage barriers. The voluntary program allows these landowners to sign up for assistance to correct fish passage barriers on their forest road stream crossings. The program is a continuing success, recognized as a model for interagency cooperation and for assisting landowners.

In general, the 2003 law required:

- Washington State to create a cost-share program that would provide from 75- to-100 percent of the cost of removing fish barriers on small forest landowner lands.
- Barriers be prioritized and repaired on a “worst-first” basis.
- Annual prioritization of projects submitted during the previous year. Those projects providing the greatest benefit to public resources are funded, lower priority projects remain in the program to be funded once they become higher priority and money is available.
- By signing up for the program, a landowner is relieved of any forest practices obligation to fix a fish passage barrier until funding is made available to complete the project.

Three state agencies and a stakeholder group cooperate to manage and fund the program:

- Washington State Department of Natural Resources (DNR) Small Forest Landowner Office is the main point of contact for program information, assisting landowners, providing outreach, and coordinating additional funding sources.
- Washington State Department of Fish and Wildlife (WDFW) is responsible for evaluating the barrier, assessing habitat quality of the stream, and ranking barriers for correction.
- The Washington State Recreation and Conservation Office (RCO) administers program funding and provides information on program contracts, billing, and reimbursement.
- Washington Farm Forestry Association (WFFA) represents the small forest landowner community on the steering committee; providing program oversight and assisting with project approval.

WDFW Ranking of Fish Passage Barriers for the Family Forest Fish Passage Program

Program legislation (RCW 77.12.755) directs repair of worst barriers first starting with barriers lowest in the watersheds. To identify and prioritize the worst barriers, WDFW rates the barriers enrolled in the Family Forest Fish Passage Program (FFFPP) on the following criteria:

- Number of fish species that benefit
- Amount and quality of habitat opened

- Degree of fish barrier—degree to which fish are prevented from moving up- and down-stream
- Number and location of other barriers and the degree of those barriers
- Concurrence from Lead Entity Watershed groups (groups that take the lead on salmon habitat recovery plans in the watershed)
- Cost effectiveness

Projects are scored to provide an initial list that is evaluated by the three state agencies; DNR, Recreation and Conservation Office, and Washington Department of Fish and Wildlife. This information, along with project cost estimates, is provided to the Family Forest Fish Passage Program Steering Committee for final funding decisions.

Information on the fish passage barriers obtained during site visits is placed in the WDFW Fish Passage Barrier Inventory. The inventory includes those stream crossings that have been identified through Washington State Department of Transportation inventories, local government inventories, barriers identified in Family Forest Fish Passage Program stream surveys, and local inventories funded by the Salmon Recovery Funding Board.

Program Challenges and Opportunities

In addition to providing adequate funding, the two greatest challenges for the Family Forest Fish Passage Program are filling data gaps in the inventory information and getting the word out to landowners that would benefit from the program. DNR and cooperating partners continue to pursue funding for inventory related work. The office continues to be successful at obtaining grants to help offset state Capital Fund allocations for the program. In June, 2012, the FFFPP partnered with the Natural Resource Conservation Service under the Puget Sound Salmon Recovery Partnership grant to replace barrier culverts on high priority projects in the Puget Sound. Combined resources funded three small forest landowner's barrier replacement projects. Additionally, the Small Forest Landowner Office submitted a grant proposal for \$350,000 to the National Fish and Wildlife Foundation to conduct road inventories on small forest landowner properties, fix fish passage barriers, address any road surface erosion and/or sediment delivery issues, as well as promote ecologically sound forestry options to landowners.

In 2012, a welcome opportunity presented itself through the passage of the “Jobs in the Environment” bill, which allocated \$10 million for capital projects, and the FFFPP received \$10 million dollars toward additional fish barrier corrections. The program will replace 17 fish barriers during the 2012 construction season, and with the \$10 million, an additional 88 fish passage barriers are anticipated to be corrected at an average cost of \$102,154.00 per project.

This year, the Family Forest Fish Passage Program solicited proposals to create a video of their projects, which is intended to educate small forest landowners about the program; to increase landowner enrollment; and to potentially increase funding opportunities based on increased enrollment in the program. The message is directed specifically to non-industrial private forest land-owners, other conservation professionals, as well as governmental and non-governmental

representatives throughout the state of Washington.

At least three small forest landowner stories will be filmed and documented for this project. These stories will reflect on the personal experience landowners had working with the Family Forest Fish Passage Program staff, and the level of satisfaction they have regarding the program. Interviews with professionals involved in the program and in salmon habitat restoration projects also will be filmed and documented. The video is scheduled to be completed by October 2012.

Family Forest Fish Passage Program Accomplishments

Numbers and Costs	FY 2012	Cumulative Since 2003
Eligible Small Forest Landowner Applications	46	
Eligible Sites	64	
Projects Completed	22	242.00
Stream Miles Opened Up	41.33	521.33
Cost of Completed Projects	\$1.75 million	15.75 million

5.4 Small Forest Landowner Office Outreach

The Small Forest Landowner Office carries out outreach as communications between the agencies and the public to foster a mutual understanding, promote public involvement, and influence actions with the goal of serving as a resource and focal point for small forest landowners concerns and policies.

It is estimated that more than 215,000 small forest landowners manage 3.2 million acres of forests in Washington—more than half of the private forest and woodland acreage in the state. Their forests tend to be concentrated in the lower elevation habitats along lakes and streams, which are key locations for providing ecosystem functions. Their forests also tend to be subject to development pressures, making it especially important to support them in their efforts to maintain their land in forestry. These landowners are absorbing heavy impacts on their forests from increasing demands for timber; fish, wildlife and water protection; recreational uses; and aesthetic resources due to population growth and a shrinking commercial forest land base.

One of the challenges of the Small Forest Landowner Office is reaching small forest landowners to make them aware of technical, educational, and cost-share assistance programs to protect water quality, fish and wildlife habitat, improve forest health, reduce the risk of wildfire and help small forest landowners retain their forestland.

The Small Forest Landowner Office's online survey requested information about the demographics of our landowners, such as: how many acres they own, how long they have owned their property, the purpose of the use of the forest land, whether water is present on the property, and organizations that they are involved in. So far, the major survey trends show: the majority of landowners own 100 acres or less, most manage their land for timber production followed by

wildlife habitat, and most have water on their property. Survey answers will help the SFLO direct work to support these landowner goals and management objectives.

The Small Forest Landowner office distributed the February, April, and June editions of the Small Forest Landowner News to our growing list of 3,500 subscribers. The newsletter is distributed every other month. Landowners can subscribe [on the website](#) or request by email to sflo@dnr.wa.gov. Readers can catch up on [Archived Small Forest Landowner News editions](#).

Forestry Riparian Easement Program Outreach

- At the request of the Washington State Legislature, DNR was tasked to find potential permanent funding sources for FREP, and public meetings were held to initiate a conversation with stakeholders. A report of the recommendations from the public meetings was sent to the legislature on May 31, 2012, and is on the [Forestry Riparian Easement Program](#) website.
- The Forestry Riparian Easement Program has updated its webpage, has developed educational materials, and increased interactions with stakeholders at Timber Fish and Wildlife (TFW) and Region District Meetings to inform interested people about the changes and updates of the program.

Family Forest Fish Passage Program Outreach

- The Family Forest and Fish Passage Program now has the [program application](#) for potential projects online. Updates have been made to educational materials including: brochure (see Appendix #2), fact sheet, contact list, program guidelines, and frequently asked questions. The program is developing an educational and promotional video. This video will be integral in providing outreach and educational opportunities to potential eligible landowners, the legislature, and other public stakeholders.
- The FFFPP has increased its presence at TFW meetings, Region District meetings, Society of American Foresters meetings, and Washington Farm Forestry Association meetings. The outreach is to help the program continually look for the best projects to ensure that the worst projects are fixed first. The program also is collaborating with fish enhancement groups to act as sponsors to the program.
- The Family Forest and Fish Passage Program created a survey to engage landowners who have participated in the program. The survey gathered valuable comments on the construction process, as well as landowner testimonials and quotes about the program that help educate other stakeholders.
- This June, Family Forest and Fish Passage Program partnered with the Natural Resource Conservation Service under the Puget Sound Salmon Recovery Partnership grant to replace barrier culverts on high priority projects in the Puget Sound to combine resources to fund three small forest landowner's barrier replacement projects.

Rivers and Habitat Open Space Program Outreach

Though the Rivers and Habitat Open Space Program (RHOSP) is not funded for this biennium, DNR has asked forest landowners to indicate their level of interest. Landowners who may be interested in applying are asked to submit a [Notice of Intent form](#). The completed forms will help DNR gauge the overall interest and illustrate to the Legislature the need for funding this program. The Small Forest Landowner Office has increased outreach activities through attendance at stakeholder meetings, newsletter, use of the Notice of Intent form, updated website and other educational materials, and press releases that enlist media assistance in informing the public and will keep them apprised of projects and results.

Forest Stewardship Program Outreach

1. Collaboration outreach efforts with Washington State University Extension to host three Forest Owners Field Days across Washington State. WSU extension and DNR worked together on promotional materials for the event and work together to facilitate each event.
2. The Forest Stewardship Program promotes many of its events and classes through the SFL News.
3. An educational brochure was created to promote the Eastern Washington cost-share program in Eastern Washington to improve forest health and reduce wildfire and bark beetle risk.

Long-term Applications Outreach

The Small Forest Landowner Advisory Committee with assistance from the SFLO conducted a survey about the Long-term Application (LTA) process. The Committee wanted to know if practitioners were aware of the process and if they thought private landowners used this application on a regular basis. The survey was taken by 89 individuals. The survey results showed that almost 20 percent of the respondents had not heard of the LTA. Of the respondents who were familiar with the LTA process, the results showed that the reason landowners used the LTA was for more harvest flexibility. Forester assistance was identified as the best way to help landowners implement a LTA. Finally, the survey showed that almost 70 percent of the respondents were likely to recommend the LTA to others.

Grant Applications

Grant Proposal	Status
2012 Western Competitive Resource Allocation Grant	2 grant proposals submitted: Absentee Outreach (\$130,000 – received funding), and Columbia fish passage (\$300,000 – no funding)
Natural Resources Conservation Service, Puget Sound Salmon Recovery Partnership Grant	Grant received May 2012. The grant will provide fish passage projects to three landowners through NRCS Environmental Quality Incentives Program (EQIP) funding

Grant Proposal	Status
2013 National Fish and Wildlife Foundation's Conservation Partners Grant in partnership with Northwest Natural Resources Group (NNRG)	Pre-Proposal submitted June 2012 and invited to submit full proposal by August 2012. This grant will conduct road inventories on SFLO properties, fix fish passage barriers, fix road surface erosion and sediment delivery where it exists, as well as promote ecological forestry options to landowners.

The Small Forest Landowner Office goal is to continue to provide the highest quality of outreach to the small forest landowners. We will continue to pursue the use of media and social media to inform the public on the program and the resources offered. The office continues to search for external funding and grants as they become available to provide more assistance to small forest landowners. An important component of this outreach is to solicit feedback from users and track our outreach activities to ensure effectiveness.

6. 20-Acre Exempt Riparian Forestland

6.1 Introduction

The 1999 Washington State Legislature exempted certain forestland parcels from some riparian protection measures in the Forest Practices Rules that resulted from the 1999 Forests and Fish Report. Exempt parcels include those that are 20 contiguous acres or less and are owned by individuals whose total ownership is less than 80 forested acres statewide. These parcels are commonly referred to as “exempt 20-acre parcels.” While not subject to some forest practices riparian protection rules, exempt 20-acre parcels must still provide protection for public resources in accordance with the Forest Practices Act.

In arriving at their permitting decisions, the federal Services concluded that they would condition the Incidental Take Permits regarding 20-acre exempt forest practices. Conditions include:

- Requiring leave trees be left along Type Np (non-fish-bearing, perennial) waters for riparian function.
- Providing eligibility criteria for coverage of 20-acre exempt parcels under the Incidental Take Permits.
- Defining coverage thresholds for 20-acre exempt parcels in each watershed administrative unit and water resource inventory area.
- Identifying certain spawning and rearing habitat of bull trout (also known as “Bull Trout Areas of Concern”) where Incidental Take Permit coverage may not apply.

6.2 Type Np Water Leave Tree Requirement

By law, DNR requires trees to be left on Np (non-fish-bearing, perennial) waters on 20-acre exempt parcels where needed to protect public resources, defined as water, fish, and wildlife. The Services concluded that leaving trees along Np waters is necessary in most situations. The Forest Practices HCP Incidental Take Permits says that “permittee (Washington State) shall require trees to be left along Type Np waters under the 20-acre exemption unless such leave trees are not necessary to protect covered species (public resources) and their habitats.” In order to implement this permit condition, a guidance memo was written September 26, 2006 and delivered to DNR region forest practices staff clarifying that “henceforth Forest Practices Applications should be conditioned to require leave trees along Type Np waters within exempt 20-acre parcels unless DNR determines this is not necessary”. See the 2007 Forest Practices HCP Annual Report for a copy of the guidance memo.

There were five Forest Practices Applications associated with 20-acre exempt parcels that had Type Np waters during FY 2012 (July 1, 2011 to June 30, 2012). Five of the applications were either conditioned according to the Np guidance memo (which reflects WAC 222-30-023(3)) or did not propose harvest within 29 feet of the Np water.

6.3 Watershed Administrative Unit and Water Resource Inventory Area Thresholds

In the Incidental Take Permits, the Services defined permit coverage thresholds for watershed administrative units (WAU) and water resource inventory areas (WRIA). The Services placed a 10 percent threshold on cumulative reduction in riparian function (as measured by the amount of recruitable large woody debris such as snags and tall trees that could fall across a stream or other water body) within a watershed administrative unit for 20-acre exempt parcels. Additionally, the Services placed a 15 percent stream length threshold within water resource inventory areas. The 15 percent threshold is based on the cumulative stream length of the affected streams within each WAU in the WRIA that has reached the 10 percent threshold. When a threshold within a watershed administrative unit or water resource inventory area is reached, subsequent Forest Practices Applications on 20-acre exempt parcels within those units or inventory areas will not be covered by the Incidental Take Permits unless the landowner chooses to follow standard Riparian Management Zone (RMZ) rules. Washington State has adopted a method, approved by the Services, to estimate cumulative percent reduction of potential large woody debris recruitment function, by watershed administrative unit, and percent cumulative stream length affected, by water resource inventory area.

6.4 Cumulative Reduction in Function Calculation Methodology

A formula called the Equivalent Area Buffer Index (Buffer Index) is used to estimate the percent reduction in function, as measured by potential large woody debris that could be recruited along fish-bearing streams. The Buffer Index was developed for the Forest Practices HCP [Environmental Impact Statement](#) (EIS) (USFWS et. al 2006) as a tool for comparing management alternatives in terms of the level of ecological function conserved through various management practices. The Buffer Index for large woody debris recruitment potential is a quantitative measure that evaluates the potential of a riparian forest to provide trees and other woody debris across and into streams originating from tree mortality, windthrow and bank undercutting. The Buffer Index is expressed as a function of slope distance from the stream channel in relationship to tree height. The methodology takes into account management activities within the buffer zone. The Buffer Index value is determined based upon the ‘mature conifer curve of large woody debris recruitment potential’ by McDade et al (1990). It relates the cumulative percent of large woody debris recruitment with the distance from the stream bank in terms of tree height. The Environmental Impact Statement (EIS) for the Forest Practices HCP provides average Buffer Indexes for western and eastern Washington. These averages are used each year to estimate the potential cumulative reduction in large woody debris recruitment function from 20-ac exempt Forest Practices Applications submitted to DNR during the fiscal year.

Example explaining Buffer Index formula for fish-bearing stream in Western Washington

- **Step 1 — Consider a fish-bearing stream (Type F).**

The assumptions for this stream's Riparian Management Zone include a Channel Migration Zone (CMZ) that is 10-feet wide, followed by a 50-foot core zone of forest along the stream, followed by a 60-foot inner forest zone in which a light selection harvest is assumed (30 percent volume removal), followed by a 45-foot outer zone in which a moderately heavy selection harvest is assumed (70 percent volume removal). This gives a total RMZ width of 155 feet including the 10-foot CMZ. The total RMZ width of 155 feet is based on an average of Site Class II and III areas [(140+170)/2], which represent the most common site classes on forestland covered by the Incidental Take Permits.

- **Step 2 — Next, refer to the McDade (1990) mature conifer curve.**

The McDade curve has been standardized for 155 feet, as the buffer distance that assumes full protection for the 100-year Site Potential Tree Height. This curve shows the cumulative percentage of large woody debris contribution in relation to the distance from the stream. In our example, we need to determine the percent of the total large woody debris contributed by the different RMZ zones (e.g., 0-10 feet, 10-60 feet, 60-120 feet and 120-165 feet). The values from McDade are 17 percent for the 0-10 foot zone, 62 percent for the 10-60 foot zone, 18 percent for the 60-120 foot zone, and 3 percent for the 120-165 foot zone.

- **Step 3 — Last, multiply the contribution percentage by the tree retention percentage for each RMZ zone, and sum them up.**

$$(0.17 \times 1.0) + (0.62 \times 1.0) + (0.18 \times 0.7) + (0.03 \times 0.3) = 0.925$$

- **Step 4 — Results**

Therefore, the RMZ on Type F streams in Western Washington would provide for an estimated 92.5 percent of large woody debris recruitment potential, given the assumption that full recruitment potential is achieved at a buffer width equal to the 100-year Site Potential Tree Height.

Annual in-office calculations of reduction in function based on proposed harvests

An estimate of potential reduction in function by watershed administrative unit is calculated annually and reported in the Forest Practices HCP annual report. The impact is “potential” because the calculations are based on “proposed” harvests, not “completed” harvests and estimates of stream impact are made in-office from information supplied on the Forest Practices Applications (FPA), not on-the-ground measurements. Average Buffer Index values are used to calculate the overall possible reduction in function by watershed administrative unit (WAU). The average Buffer Index values used for the annual report calculations are taken from the Final EIS

(Appendix B page B-28) for the Forest Practices HCP. These average Buffer Index values were obtained through modeling harvests based on both Forests and Fish Rules, and pre-Forests and Fish Rules. Many assumptions went into the modeling effort including degree of harvest, width of riparian area, stream width, etc. An end result of the harvest modeling was the development of average values for an overall Buffer Index for eastern and western Washington for harvests complying with Forests and Fish Rules, as well as with pre-Forests and Fish Rules.

The EIS average Buffer Index values for Forests and Fish Rules are used in our calculations without modification; however, an additional 15 percent was added to the EIS average Buffer Index values for pre-Forests and Fish Rules because the 1999 Salmon Recovery Act required 20-acre exempt landowners to protect an additional 15 percent of riparian trees above pre-Forests and Fish Rules. The average reduction in function value was calculated by subtracting the pre-Forests and Fish Rules Buffer Index values from the Forests and Fish Rules Buffer Index values for a percent reduction in function.

Below are the Buffer Index values and reduction in function factors used for the Forest Practices HCP Annual Report.

Buffer Indexes for Western Washington:

Buffer Index average for Forests and Fish Rules = 0.93

Buffer Index average for Rules prior to Forests and Fish = 0.60

Buffer Index average for 20-acre exempt rules = $0.60 \times 1.15 = 0.69$

Average Reduction in function factor = $0.93 - 0.69 = 0.24$

Buffer Indexes for Eastern Washington:

Buffer Index average for Forests and Fish Rules = 0.91

Buffer Index average for Rules prior to Forests and Fish = 0.67

Buffer Index average for 20-acre exempt rules = $0.67 \times 1.15 = 0.77$

Average Reduction in function factor = $0.91 - 0.77 = 0.14$

The estimated number of feet of fish bearing stream potentially affected by harvests through Forest Practices Applications is tracked throughout the year. The total number of feet in each watershed administrative unit is calculated for the fiscal year and then multiplied by 0.24 in Western Washington and 0.14 in Eastern Washington to derive the number of feet of large woody debris recruitment reduction in function. These numbers are summed over the years and then divided by the total fish bearing stream length in the watershed administrative unit to determine potential percent cumulative reduction in function.

During the 50-year permit period, if the 10 percent threshold is reached within a watershed administrative unit, all subsequent 20-acre exempt landowners submitting a Forest Practices

Application will be informed that their forest practice will not be covered by the Incidental Take Permits unless the landowner chooses to use standard Riparian Management Zone buffers.

The following table contains the cumulative in-office estimates of reduction in function by watershed administrative unit for the time period of June 5, 2006, to June 30, 2012. A visual representation of the 20-acre Exempt Forest Practices Applications accounted for in the following table can be found in Appendices #3a and #3b. The two maps in these appendices show the location of the 20-acre exempt applications for FY 2012 and the location of all 20-acre exempt applications since June 2006. Maps showing 20-acre exempt Forest Practices Applications in previous fiscal years can be found in previous Forest Practices HCP annual reports.

**Estimated Potential Percent Loss of
Large Woody Debris Recruitment Potential,
by Watershed Administrative Unit**

Watershed Administrative Unit	Percent (%) Reduction in LWD Function in WAU
Abernathy	0.0219
Acme	0.0519
Antonie Creek	0.0187
Bangor-Port Gamble	0.0469
Bellingham Bay	0.0657
Bogachiel	0.0326
Blanchard Creek	0.0401
Bunker Creek	0.0859
Carbon	0.0270
Carpenter	0.0519
Cathlapotl	0.0816
Cedar Creek/Chelatchie Creek	0.2707
Chehalis Headwaters	0.0060
Chehalis Slough	0.1906
Chinook	0.0214
Church Creek	0.3326
Coal Creek	0.0924
Colvos Passage/Carr Inlet	0.0659
Connelly	0.1657
Corkindale	0.0966
Cottonwood Creek	0.0173
Cowlitz River/Mill Creek	0.0842
Damfino	0.1438
Davis Creek	0.0055
Day Creek	0.2473
Deadman Creek/Peone Creek	0.1259
Delameter	0.0048
Delezena Creek	0.0635
Diobsud Creek	2.3074
Discovery Bay	0.0333
Dragoon Creek	0.0307
Drayton	0.2734
Dyes Inlet	0.1312
East Creek	0.0311
East Fork Humptulips	0.0994
EF Satsop	0.0054
Electron	0.0211
Elk River	0.0073
Everett	0.0557
French-Boulder	0.0375
Friday Creek	0.7286

**Estimated Potential Percent Loss of
Large Woody Debris Recruitment Potential,
by Watershed Administrative Unit**

Watershed Administrative Unit	Percent (%) Reduction in LWD Function in WAU
Gibson Ck.	0.0471
Gilligan	0.0950
Grays Bay	0.0338
Great Bend	0.0175
Haller Creek	0.0486
Hansen Creek	0.2059
Harstine Island	0.1057
Hoko	0.0037
Hope Creek	0.0130
Horseshoe Falls	0.2848
Huckleberry Creek	0.0192
Hutchinson Creek	0.1311
Independence Creek	0.1520
Johns River	0.0524
Jordan	0.0805
Key Peninsula	0.0120
Kiona	0.0863
L.Snoqualmie River/Cherry Creek	0.0050
Lacamas	0.0825
Lacamas Lake	0.2538
Lake Merwin	0.1562
Lake Whatcom	0.0700
Liberty Miller - Appletree	0.1125
Little Deep Creek	0.0456
Little Spokane/Deer Creek	0.0380
Little Washougal	0.1063
Long Beach	0.0855
Lost Creek	0.9051
Lower Chehalis/Elizabeth Creek	0.0128
Lower Ceweeman	0.1013
Lower Cowlitz	0.0843
Lower Deschutes	0.0133
Lower Dosewllips	0.1723
Lower Humptulips River	0.0213
Lower Kalama	0.0570
Lower Naselle	0.0226
Lower NF Stilly	0.0279
Lower Newaukum	0.3056
Lower Pilchuck Creek	0.1576
Lower Pilchuck River	0.1392
Lower Skokomish	0.0658

**Estimated Potential Percent Loss of
Large Woody Debris Recruitment Potential,
by Watershed Administrative Unit**

Watershed Administrative Unit	Percent (%) Reduction in LWD Function in WAU
Lower Willapa	0.1659
Lynch Cove	0.1833
Mashel	0.0167
Mason	0.0962
MF Satsop	0.0336
Middle Humptulips	0.0431
Mill Creek	0.0186
Mill Creek/Clugton Creek	0.0319
Mitchel	0.0377
Mox Chehalis	0.1067
Mt Zion	0.0318
Muck Creek	0.0061
Naselle Headwaters	0.0040
Nemah	0.0375
NF Granite Creek	0.0340
Nineteen Creek	0.1897
North Headwaters	0.0492
North-Middle Forks Deer Creek	0.0328
Olequa	0.1826
Ostrander	0.2156
Otter Creek	0.0406
Packwood Lake	0.2445
Patit Creek	0.0518
Pend Oreille/Cedar Creek	0.0398
Pilchuck Mtn.	0.0134
Port Angeles	0.1025
Porter Canyon	0.0305
Quilceda Creek	0.1820
Quilliscut Creek	0.1263
Quinault Lake	0.1143
Rock Creek	0.1346
S. Sinclair Inlet	0.0319
Salmon Creek	0.0455
Salt Creek	0.2125
Samish Bay	0.0904
Samish River	0.1117
Satsop	0.1019
Scatter Creek	0.0113
Sekiu	0.0216
Siebert McDonald	0.0627
SF Skokomish	0.0610

**Estimated Potential Percent Loss of
Large Woody Debris Recruitment Potential,
by Watershed Administrative Unit**

Watershed Administrative Unit	Percent (%) Reduction in LWD Function in WAU
SF Skykomish River	0.0201
SF Willapa	0.0170
Silver Lake	0.1628
Smith Creek	0.0214
Smith Point	0.4110
Squalicum Creek	0.0709
St. Peter-Lambert	0.0248
Stillaguamish Flats	0.0163
Sultan River	0.0422
Sumas River	0.0472
Sutherland Aldwell	0.1677
Tacoma Creek	0.1030
Tanwax Creek	0.1279
Toandos Peninsula	0.0336
Tuttle River	0.0750
Upper Chehalis/Rock Creek	0.0092
Upper Ceweeman	0.0328
Vancouver	0.3764
Vashon Island	0.0502
Vedder	0.7609
Verlot	0.0333
Vesta Little N.	0.0054
Whidbey Island	0.1167
Winston Creek	0.0236
W. Kitsap	0.0077
Wishkah Headwaters	0.0812
Woodland Creek	0.1990
Woods Creek	0.0528
Wynochee River System	0.0097
Yacolt	0.1269
Yelm Creek	0.0851

The table above shows estimated percent of loss of potential large woody debris recruitment in each watershed administrative unit containing one or more Forest Practices Applications (FPAs) over the elapsed six year period of the Incidental Take Permits. There are a total of 846 watershed administrative units in the state, of which 154 have some measure of reduction in potential recruitment function. Currently, in-office calculations indicate that each watershed administrative unit affected by 20-Acre Exempt applications, except for one, has less than one percent cumulative reduction in function. The largest possible impact is in Diobsud Creek Watershed Administrative Unit in the Upper Skagit Watershed Resource Inventory Area (WRIA), which only has a total of 36,394 feet of fish-bearing stream in the entire unit. In-office

calculations of proposed applications show a possible 2.3 percent potential reduction of large woody debris recruitment function in Diobsud Creek unit. The Lost Creek unit in the Sanpoil WRIA, with 23,172 feet of fish-bearing stream, shows a possibility of 0.9 percent potential reduction of large woody debris recruitment function. There also are two watershed units that indicate a potential of 0.7 percent reduction in function; one at 0.4 percent; four at 0.3 percent; nine at 0.2 percent; and thirty-four at 0.1 percent. All other watershed administrative units listed in the above table show the possibility of less than 0.1 percent reduction in function since the 2006 issuance of the Incidental Take Permits.

6.5 Data Collection for Watershed Administrative Unit Threshold

Reduction in Function within Watershed Administrative Units

A non-scientific field review was initiated in September 2008 on a subset of 20-Acre Exempt Forest Practices Applications to help verify that the in-office method for estimating reduction in function is sufficient. In past annual reports the State has provided information from these field reports. However, in this 2012 Annual Report the State will not include data from the field visits. Since 2008, the State included a small sampling of 20 acre-exempt applications one time for the compliance monitoring program. Currently, the state is reviewing the intersection of these two processes. The information provided in next year's 2013 Forest Practices HCP Annual Report will depend on what is determined in the review.

Cumulative Stream Length for Water Resource Inventory Areas

A fish-bearing stream baseline length was calculated for all Water Resource Inventory Areas (WRIs). As in-office calculations indicate that the 10 percent reduction-in-function threshold may be approached in a watershed administrative area, DNR will compare the total stream length on covered forestland in each watershed administrative unit to determine when the 15 percent stream-length threshold might be reached for the water resource inventory area. DNR then will inform landowners that subsequent Forest Practices Applications associated with 20-Acre Exempt parcels within the area no longer will be covered by the Incidental Take Permits, unless individual landowners choose to apply standard Riparian Management Zone rules on their 20-Acre Exempt forest practice. Currently, there are no watershed administrative units approaching the 10 percent threshold for reduction in function; therefore, no areas currently are at risk for reaching the 15 percent stream threshold.

6.6 Bull Trout Areas of Concern

The federal Services placed conditions on the Incidental Take Permits regarding specific, identified spawning and rearing habitat areas for bull trout. These areas are of concern because of extremely low populations of bull trout. The condition states that a forest practice that qualifies for and uses the 20-Acre Exempt riparian rules and falls within these bull trout areas of concern will not be covered by the Incidental Take Permits unless the forest practice is shown to not measurably diminish the level of riparian function. The function is measured by potential large

woody debris recruitment and is compared to the level of function that would have been provided by the standard Forest Practices Rules. The State and Services together developed a process to track forest practices in these bull trout areas of concern. The process was described in the [2009 Forest Practices HCP Annual Report](#) (DNR 2009).

There was one Forest Practices Application associated with 20-Acre Exempt parcels in the bull trout areas of concern during the reporting period from July 1, 2011 through June 30, 2012. The FPA -2812061- was approved before the HCP Administrators became aware of it. The application was in the Hutchinson Creek WAU and had approximately 600 feet of fish-bearing stream associated with it. The application arrived through the Forest Practices Application Review System following approval, rather than at the usual time, prior to approval. As a result, an additional safeguard was included in the processing of applications to insure that 20-Acre Exempt applications are received at the start of the review process.

6.7 20-Acre Exempt Forest Practices Application Data

Of the 5,302 Forest Practices Applications processed throughout the year, 4,946 were approved, and of those, 84 were new, approved 20-Acre Exempt applications adjacent to fish-bearing streams.

Number of 20-Acre Exempt Forest Practices Applications for FY 2011

20-Acre Exempt Forest Practices Applications with Specific Characteristics	Number
Number of 20-Acre Exempt applications with fish-bearing water	84
Number of 20-acre Exempt applications that were conversions with fish-bearing water	0
Number of 20-Acre Exempt applications with fish-bearing water that were not conversions	84
Number of 20-Acre exempt applications that were in Bull Trout Areas of Concern	1

Twenty-acre exempt non-conversion applications along fish-bearing water comprised about 1.7 percent of all approved applications submitted during the 2010-2011 reporting period. This percent was calculated with non-conversion 20-acre Forest Practices Applications because the Incidental Take Permits do not cover Forest Practices Applications that are conversions.

7. Alternate Plans, Rivers and Habitat Open Space Program

7.1 Introduction

This chapter provides information about two areas of interest to the Services – Alternate Plans, and the Rivers and Habitat Open Space Program. Alternate Plans are forest practices plans that deviate from standard Forest Practices Rules but provide public resource protection equal in overall effectiveness as the standard rules. The Rivers and Habitat Open Space Program acquire permanent forestland conservation easements between landowners and the State. The lands eligible for this program include islands of timber along rivers or streams that tend to migrate or abruptly change channels, also called channel migration zones. It also acquires forestland easements to conserve upland habitat of threatened and endangered species.

7.2 Alternate Plans

An Alternate Plan is a tool forest landowners can use to develop site-specific management plans for forest activities regulated under the Forest Practices Act. An Alternate Plan may deviate from the standard Forest Practices Rules, as long as the plan provides protection for public resource at least equal in overall effectiveness to the protections afforded by the Act and rules. WAC 222-12-0401 describes the Alternate Plan process, including the review by interdisciplinary teams.

The following table shows the number and status of Forest Practices Applications submitted that included an Alternate Plan during the period from July 1, 2011 to June 30, 2012:

Forest Practices Applications with Alternate Plans during FY 2012

Landowner Type	Status of Forest Practices Applications with Alternate Plans				Total
	Approved	Disapproved	In Review	Closed Out*	
Small	88	2	7	4	101
Large	46	1	7	3	57
Total	134	3	14	7	158

*Closed Out means that the applicant has withdrawn the Forest Practices Application.

7.3 Rivers and Habitat Open Space Program

Like the Forestry Riparian Easement Program (see chapter 5), the original Riparian Open Space Program was a product of the 1999 Forests and Fish Law. It was codified in the Forest Practices Act and adopted as a rule. The 2009 Legislature amended the Riparian Open Space Program. The Forest Practices Board amended the rules to adopt the revisions in statute and changed the name in the Forest Practices Rules to the Rivers and Habitat Open Space Program, which was

effective June 19, 2011. The Rivers and Habitat Open Space Program differs from the Forestry Riparian Easement Program in that it is available to all forest landowners, not just small forest landowners. From its inception to the end of the 2007–2009 Biennium, the program was administered through DNR Asset Management and Protection Division. With the 2009 changes, the program now is administered through DNR Forest Practices Division.

The Rivers and Habitat Open Space Program promote long-term conservation of aquatic resources and upland habitats through the purchase of conservation easements. The program acquires conservation easements on lands and timber within a specific type of channel migration zone known as an “unconfined channel migration zone.” It also acquires easements to conserve habitat of threatened and endangered species.

A channel migration zone is the area where the active channel of a stream is prone to move in the near term. Unconfined channel migration zones are generally larger water bodies, have less than 2 percent gradient and are found in a valley more than four times wider than the bank-full width of the channel. These areas typically have very high ecological value as spawning and rearing habitat for salmon and other fish species. Under the Forest Practices Rules, no timber harvesting or road construction may occur within channel migration zones due to their ecological importance.

The Forest Practices Rules protect critical habitat of 10 upland species, 2 of which are the northern spotted owl and the marbled murrelet. ‘Critical habitat’ is a designation that makes a special effort to protect the important characteristics that will assist in the recovery of the threatened or endangered species. Landowners of forests determined to be critical habitat for these species are eligible to grant to the State a perpetual conservation easement under the Rivers and Habitat Open Space Program.

DNR screens applications, prioritizes qualifying applications, and acquires conservation easements based on available funding. There was no money allocated for the Rivers and Habitat Open Space Program for the FY11-13 funding period. When funding becomes available, applications for conservation easements for channel migration zones will be prioritized separately from applications for habitat of threatened and endangered species. Applications will be prioritized based on conservation benefits and landowner management options.

The following chart shows the budget allocated by the Washington State Legislature for the Rivers and Habitat Open Space Program, and the acres purchased since program’s inception.

Budget, and Acres Purchased under Rivers and Habitat Open Space Program

Fiscal Year	Budget Allocated	Amount Spent	Number of Transactions	Acres Purchased
01-03	\$1,000,000	\$1,000,000	3	387
03-05	\$1,000,000	\$500,000	5	197
05-07	\$2,000,000	\$0	0	0
07-09	\$2,200,000	\$2,200,000	4	339
09-11	\$500,000	\$460,000	4	119
11-13	\$0	\$0	0	0

The \$500,000 left over from FY03-05 was reallocated for FY05-07. All of the \$2 million from FY05-07 was reallocated for FY07-09. There were no transactions for FY05-07 because applicants withdrew due to values lower than anticipated, or the lands were not eligible. There were 11 applications for FY09-11, of which eight were eligible. DNR assembled a Technical Selection Committee that determined the priority of funding of the eligible applications for the \$500,000 allocated for the FY09-11 funding period.

8. Enforcement

8.1 Introduction

Working in conjunction with forest landowners, timber owners, and operators, the Forest Practices Program staff are responsible for ensuring forest practice activities are conducted according to the Forest Practices Act and Rules, as well as the conditions of the approved Forest Practices Application/Notification. Region Forest Practices Program staff prioritize compliance inspections relative to the potential risk to public resources posed by the proposed activity. For example, landowners that propose substantial road construction in steep terrain—where there is potential for sediment delivery to a stream—will receive a higher level of compliance inspections, than a proposal that has limited road construction on gentle slopes that have no associated risk of sediment delivery to a stream.

Classifying a Forest Practices Application ranks the level of risk to a public resource and is therefore used as a tool for program foresters to determine the level of compliance inspections that will be conducted for a particular proposed activity. This targeted approach helps ensure the most effective and efficient use of a Forest Practices Foresters' time.

Four classes of forest practices

- **Class I** –determined to have no direct potential for damaging a public resource.
- **Class II** –determined to have a less than ordinary potential to damage a public resource.
- **Class III** –determined to have an average potential to damage a public resource.
- **Class IV** –determined to have potential for a substantial impact on the environment – this is further evaluated dependent upon whether the proposal is **Class IV-General**, or **Class IV-Special** classification. Applications classified as IV-General are applications that are being converted from forestry to a different land use such as housing or agriculture.

Regardless of the classification, all forest practices activities must be performed in compliance with the Forest Practices Act and Rules. More detailed information on [forest practices classifications](#) can be found in WAC 222-16-050.

Compliance visits are an important part of the Forest Practices Forester's job. The information gathered during compliance visits and through the Compliance Monitoring Program (Chapter 9) is used to improve delivery of the Forest Practices Program. Improvement may include clarifying or modifying rule language, improving forms and processes, providing guidance documents or modifying board manuals, improving the administration of the rules, and preparing specific education and training opportunities. Field compliance visits will continually inform all these efforts aimed at improving compliance with the Forest Practices Rules.

When an activity has been found to be out of compliance with the Forest Practices Rule, program staff has several enforcement options available: informal conferences, Notices to Comply (NTC), Stop Work Orders (SWO), civil penalties, Notice of Intent to Disapprove, and criminal penalties.

The Forest Practices Act and the Board encourage informal, practical, result-oriented resolution of alleged violations and actions needed to prevent damage to public resources. It is also the Board's policy to use a progressive approach to enforcement that begins with consultation and voluntary efforts to achieve compliance while reserving civil penalties (monetary fines) for more serious infractions.

8.2 Enforcement Activity

Enforcement documents can be used for either violations or non-violations. Violations are forest practices activities that have damaged a public resource or violate a law or rule. Non-violations are situations where damage to a public resource has not occurred but the Forest Practices Forester has determined that damage is imminent if the activity or condition is not altered. An example would be an operator who does not have adequate road surface drainage on a haul road for use in the rainy season. The operator could be issued a non-violation Notice to Comply requiring the road be upgraded so it does not pose a threat to public resources during heavy rains. The following table shows enforcement activity between July 1, 2011, and June 30, 2012.

Stop Work Orders and Notices to Comply Issued in Fiscal Year 2012

DNR Region	Stop Work Orders		Notices to Comply		Total
	Non-Violation	Violation	Non-Violation	Violation	
Southeast	0	0	8	10	18
Northwest	4	9	3	15	31
South Puget Sound	1	5	7	2	15
Northeast	1	5	3	13	22
Pacific Cascade	1	6	13	10	30
Olympic	3	6	4	14	27
Total	10	31	38	64	143

Fiscal Year 2012 Enforcement Data Summary

*Approved Forest Practices Applications

Number of current Forest Practices Application/Notifications (FPA/Ns) through June 30, 2012 (See chapter 4 for details)	10,569*
Number of Notice To Comply / Stop Work Orders issued for violations	95
Ratio of Notice To Comply / Stop Work Orders violations to total number of valid FPA/Ns (95/10,569)	0.9%

Fiscal Year 2012 Enforcement Data Summary

*Approved Forest Practices Applications

Number of Notice To Comply / Stop Work Orders issued for non-violations	48
Ratio of Notice To Comply / Stop Work Orders non-violations to total number of valid FPA/Ns (48/10,569)	0.5%
Total number of documents issued (violation & non-violation)	143
Ratio of all documents issued to total valid FPA/Ns (143/10,569)	1.4%

The table above compares the number of Notice to Comply and Stop Work Order documents issued in FY2012 to the number of current Forest Practices Applications through June 30, 2012. A comparison from the 2011 annual report shows a decrease of 30 NTC/SWOS issued, which breaks down to a decrease of 24 percent issued for violations, and a decrease of 10.6 percent issued for non-violations. The program is evaluating approaches to more fully utilize enforcement data to explain patterns and relationships, as well as inform compliance improvement efforts and training.

Although not all positions are full-time, the program has about 56 Forest Practices Program field staff statewide that enforces the Forest Practices Act and Rules and helps ensure compliance. Some forest practices positions were vacant due to budget reductions.

The majority of violations do not require additional enforcement action, such as issuance of a civil penalty or Notice of Intent to Disapprove. The decision to pursue this level of enforcement is made at the DNR Region level and a number of factors are taken into consideration such as:

- Failure to comply with the terms or conditions of a Forest Practices Application /Notification or Stop Work Order,
- The probability of more than minor harm to the environment,
- The extent of damage to the public resource, and
- Multiple violations of the same rule or law by the same landowner.

The table below shows the number of civil penalties and Notices of Intent to Disapprove that became a Final Order* during FY2012.

Fiscal Year 2012 Civil Penalties and Notices of Intent to Disapprove

Region	Civil Penalties	Notice of Intent to Disapprove
Southeast	0	0
Northwest	0	0
South Puget Sound	0	0
Northeast	0	0

Region	Civil Penalties	Notice of Intent to Disapprove
Pacific Cascade	0	0
Olympic	0	0
Total	0	0

*Final Order occurs when all appeal processes have concluded.

9. Compliance Monitoring Program

9.1 Introduction

Compliance monitoring is an important element of the Forest Practices HCP. One of the State's responsibilities is to ensure that operators and landowners are complying with the Forest Practices Rules when conducting forest practices activities. According to WAC 222-08-160 (4), "DNR shall conduct compliance monitoring that addresses the following key question: 'Are forest practices being conducted in compliance with the rules?' DNR shall provide statistically sound, biennial compliance audits and monitoring reports to the Board for consideration and support of rule and guidance analysis. Compliance monitoring shall determine whether Forest Practices Rules are being implemented on the ground. An infrastructure to support compliance will include adequate compliance monitoring, enforcement, training, education and budget."

The objective of the Compliance Monitoring Program is to determine if forest practices are being conducted in compliance with the Forest Practices Rules *in effect at the time the activity was conducted*. To reach this end, the goals of the Compliance Monitoring Program are as follows:

- Develop methods to streamline and maintain a cost-effective field compliance monitoring process.
- Provide relevant and accurate information to the Board and the Adaptive Management Program (AMP) to modify or to clarify the rules in order to improve compliance.
- Identify opportunities to provide education (especially for complex Forest Practices Rules) for regulators, landowners, consultants, and operators as suggested by non-compliance rates.
- Provide information for Forest Practices Rule and Forest Practices Board Manual revision if necessary.
- Provide results to the Services where applicable.

The framework for the Compliance Monitoring Program includes the following components:

- The results must be credible and defensible.
- The program will develop sampling methods, sample size, selection criteria, and reporting format.
- The sampling design will provide required information over time.
- The program must be sustainable, adjustable, easily understood, and manageable.

The program is administered within DNR by a Compliance Monitoring Program Manager and is staffed by this manager and a program specialist. The program relies on assistance from the Washington State Departments of Ecology (Ecology) and Fish and Wildlife (WDFW), and the Tribes to assist with field assessments and data collection.

Additional guidance is provided by the Compliance Monitoring Stakeholder Committee, which includes representatives of the DNR, WDFW, Ecology, Tribes and tribal organizations, Washington Forest Protection Association, and the Conservation Caucus. This forum meets regularly and provides advice on:

- Clarification of rule elements when questions arise,
- Consistent implementation of program protocols, and
- Consensus recommendations from the committee for Compliance Monitoring Program improvement.

DNR has identified compliance improvement as a major goal of the DNR Strategic Plan in 2010. The information gained through the Compliance Monitoring Program (and through compliance and enforcement visits by Forest Practices Foresters) may highlight rule implementation issues that need attention. Over time, and by means of a thorough review of the factors contributing to potential non-compliance, DNR is developing a continuous feedback loop between compliance monitoring, field compliance/enforcement (Chapter 8) and Forest Practices training efforts to improve compliance with the Forest Practices Rules.

9.2 Compliance Monitoring Program Design

In 2006, a State working group led by DNR completed a compliance monitoring program design (Washington DNR, 2010) focusing on Riparian Management Zone (RMZ) Forest Practices Rules for all typed waters and road activities. The program design also included a detailed protocol for field assessments, field form revisions, and data collection templates. Each of these program design elements has been revised to reflect current methods.

The Forest Practices Board (Board) recommended that DNR staff, under the supervision of the Adaptive Management Program Manager, conduct a Technical Review of the program design. Five reviewers were selected that had operational monitoring experience and the report results were presented to the Board in February of 2008.

In response to the 2008 review, three significant changes to sampling were implemented for 2008-2009. The first was adding a protocol to capture observed differences between water type classification at the time of application approval and at the time of the compliance review. This was instituted at the request of the Forest Practices Board because of the frequency of perceived differences between the stream type approved as part of the Forest Practices Application and what was actually being seen on the ground during compliance monitoring reviews (2006-2007 sampling seasons) (Washington DNR, 2009). This change to the sampling approach is an effort to quantify the extent of the discrepancy. Secondly, compliance with the rules as they are applied on the ground is now assessed in addition to compliance with what was stated on the approved application; this allows a comparison of differences where the two are not the same. The third change was to modify the Forest Practices Application selection strategy to sample each DNR region proportional to their representation in the entire population of applications statewide. This is to assure representation of each region in the sample.

In addition, DNR contracted with a professional statistician to refine the statistics. The program design was revised for each sampling season 2009 through 2011 to accommodate emphasis samples and improve sampling effectiveness. In each case the statistician reviewed and approved the designs.

9.3 Highlights of the Compliance Monitoring Program

The *Biennium 2010-2011 Compliance Monitoring Summary Report* was published in April 2012. This and previous [biennial reports](#) summarize results for two-year periods in which randomly selected and approved Forest Practices Applications were assessed for compliance with the Forest Practices Rules. The monitoring is conducted by professional foresters, geologists and biologists from DNR, Ecology, WDFW, and several tribes and tribal organizations in survey teams of up to four or five members. Landowners are invited to attend the field assessments.

The study design for 2010-2011 focused on Riparian Management Zone (RMZ) Forest Practices Rules for all typed waters (WAC 222-30) along with Road Construction and Maintenance rules (WAC 222-24) applied at the Forest Practices Application site. Additionally, the design also included a sample for determining haul route compliance. An additional emphasis sample examined how well water type classification was being implemented in terms of consistency with Compliance Monitoring observations.

The sampling strategies evaluate each activity as a whole determining whether the activity was completely compliant or if any part of it was non-compliant. Compliance percentage rates were calculated dividing the number of compliant activities by the total number assessed as compliant or non-compliant. Additionally, those found non-compliant were assigned a severity rating of Minor, Moderate or Major, indicating the level at which enforcement action would be considered. All non-compliant activities, regardless of the severity rating, are included in the non-compliant total.

The compliance rates for each of the rules observed were not significantly different than observed the previous biennium. Riparian prescription compliance rates remained about the same, varying between 43 percent and 95 percent as shown in the table below. Road-related compliance with approved Forest Practices Applications was 85 percent. The new haul route survey showed that 96 percent of existing haul routes sampled were compliant with sediment delivery standards.

2010-2011 Riparian Prescription Compliance Rates from the Compliance Monitoring Program

Riparian Prescription type	Percent (%) Compliant	Number Observed
Western WA Type F or S No RMZ Inner Zone harvest	63	43
Western WA Type F or S No Entry RMZ	64	14
Western WA Type F or S DFC Option 1	43	7

Riparian Prescription type	Percent (%) Compliant	Number Observed
Western WA Type F or S DFC Option 2	58	24
Eastern WA Type F or S No Inner Zone	75	8
Eastern WA Type F or S No Entry RMZ	67	3
Statewide Type Ns	92	71
Statewide Type Np	87	68
Statewide Wetlands	95	37

The compliance team also sampled non-typed F or S waters recorded on the approved Forest Practices Applications to determine if the stream types observed by the compliance team were the same as stated on the Forest Practices Application. Findings showed 76 percent of non-fish bearing stream reaches observed by the compliance team were in agreement with the water type stated in the application.

The May 2011 Compliance Monitoring Action Plan, (a follow-up to the 2008/2009 Compliance Monitoring Report), is being implemented where budget allows (see 2011 FPHCP Annual Report for copy of Plan). The Compliance Action Monitoring Plan addressed:

- Water-type classification determinations
- Riparian non-compliance
- Riparian 20-acre exempt non-compliance
- Road non-compliance
- Type A wetland non-compliance

9.4 Future Plans for the Compliance Monitoring Program

Currently the State is reviewing emphasis areas and protocol changes for the 2012 Compliance Monitoring field season. The State is working to be able to improve the results characterization from compliant/non-compliant to yield more information about the nature of the activity compliance. Expanding observations to detect reasons why events of non-compliance occur is a high priority. Any new approaches will be reviewed by the Compliance Monitoring Stakeholder Committee for recommendations and changes.

A follow-up sample of 20-Acre Exempt parcels Riparian Management Zone harvests is being implemented in 2012 to determine if there has been improvement in compliance rates since the 2008-2009 report.

9.5 Funding

On an ongoing basis, the Forest Practices Program actively seeks state funding from the legislature and support from the program's partners to effectively implement the Compliance Monitoring Program. DNR has received funds from the Legislature since 2005 that allows the Departments of Ecology and Fish and Wildlife to work with DNR in the compliance monitoring

efforts. The legislature reduced funding for the Forest Practices Program as a whole in the last two biennia and the Compliance Monitoring Program is sharing in those reductions. Participation grants have been cut and some emphasis sampling is being postponed to accommodate competing priorities in the Forest Practices Program.

10. Training/Information/Education

10.1 Introduction

Training is a key element to successful implementation of, and compliance with the Forest Practices Rules – some of the most comprehensive in the nation. Forest Practices Rules require DNR to “conduct a continuing program of orientation and training, relating to forest practices and rules thereof, pursuant to RCW 76.09.250” (WAC 222-08-140). DNR conducts ongoing training programs to educate internal agency staff, forest landowners and staff from cooperating agencies and organizations on implementation of Forest Practices Rules.

There are four major venues in which the Forest Practices Program provides training:

- Forest Practices Program training
- Subject-based training
- Region staff provided training
- Washington Contract Loggers Association (WCLA) training

The forest practices program and cooperating agencies provided over 380 hours of training to more than 3,000 participants in fiscal year 2012.

10.2 Status of Forest Practices Training Programs

Due to budget constraints during much of FY 2012, the program has not had a training manager to implement a training program for staff, stakeholders, and landowners. Some training has continued, although on a much more limited scale. Training included such subjects as unstable slopes, channel migration zones, wetlands, and enforcement. These are being provided on an as-needed basis.

The program obtained funding for a training manager in late FY 2012. The new manager and staff will develop a strategy for future trainings to be developed and implemented in the coming year. This training program will place heavy emphasis on improving evaluations of risk to public resources and public safety, reduction in mass wasting events related to forest practices activities, and compliance monitoring results. Results from both field compliance and enforcement visits as part of the daily work of Forest Practices Foresters, and from the Compliance Monitoring Program will help direct a comprehensive training program for DNR staff, landowners, and other stakeholders.

Forest Practices Program Training

Budget constraints have affected the magnitude of programmatic training over the past year. However, where possible, trainings have continued to occur. Forest Practices staff receives truncated training sessions during scheduled program meetings. The participants then share the

information with other program staff. Formal sessions are provided for complex subjects that require larger blocks of time.

Short duration training took place during regularly scheduled Operations meetings for Forest Practices staff. The meetings are held three times a year between division staff and region staff to share information, address program concerns and answer questions. Training included implementation changes due to rule and law updates for: Bald Eagles, cultural resources, conversions, RMAP extensions, and ARC GIS tools.

Formal Training Topics

Enforcement training

Brief ‘adjudicated hearing’ training was provided by the Assistant Attorney’s General office to staff regarding initial appeal process for a Notice to Comply.

54 people attended the training.

Compliance Monitoring

Program provides annual training for staff from DNR, Ecology, state Fish and Wildlife and tribal field staff that participate in on-site review of completed Forest Practices Applications. The training specifically focuses on the protocols used to collect Compliance Monitoring data. Protocols, which are updated periodically to reflect design changes, are reviewed to ensure understanding of procedures and their purpose, usually in the context of meetings. On-the-job training is done using experienced staff to promote consistency in observations by new program participants.

24 people attended the training.

Information technology

Training for Forest Practices Program staff on information technology applications and web-based tools was provided on an as-needed basis during the 2012 fiscal year. Training included Forest Practices Risk Assessment Tool and hydrography GIS database editing.

17 people attended the training.

Unstable Slope

Training for Forest Practices Program staff and external stakeholders was provided six times. The objectives of unstable slopes training is to improve the ability to recognize unstable slopes and landforms, improve consistency in recognition of these features, and identify when a specialist is needed for further consultation.

103 people attended the training.

Channel Migration Zone

Two ‘channel migration zone’ trainings were provided this year. The target audience is DNR program staff, landowners and staff from cooperating agencies. The objectives of channel

migration zone training include learning about channel anatomy, identifying significant features such as bankfull channel width, and the implementation of the channel migration definition per the Forest Practices Rule. The class includes subjects such as understanding flood stage, and lateral channel movement; and aerial photo chronology to determine changes in channel morphology. Delineation of the migration zone also is demonstrated.

28 people attended the training.

Wetlands

Two ‘wetland identification’ trainings were provided this year to program staff, landowners and staff from cooperating agencies. Classes consist of identification of wetland vegetation for the specific region in which the training is conducted. Subjects covered in the classroom include wetland hydrology, soils, vegetation, and mitigation. Labs are conducted to teach how to identify soil properties and plant associations. Field exercises cover wetland identification and delineation.

35 people attended the training.

Training by Region Staff

DNR region staff generally delivers both statewide and region-specific training. In addition, each region office holds regular Timber Fish & Wildlife (TFW) “cooperator” meetings for program participants to communicate changes in Forest Practices Rules, rule implementation or application processing. Participants are invited and encouraged to share information and presentations relevant to the natural resource environment. Cooperator meetings are an important mechanism to assure fair and uniform application of requirements for forest practices within DNR’s six regions. Region staff also organizes informal meetings where technical or scientific information is presented to keep field practitioners informed about recent research findings.

Regions completed or sponsored more than 130 training presentations and meetings during fiscal year 2012, reaching about 2,400 people. The topics varied widely. A few of the topics were: wetland identification, northern spotted owl assessments, water type verification, road maintenance training, bald eagles, cultural resources, unstable slopes, and general forest practices rule topics.

Washington Contract Logger Association Training

Staff participated in training offered by Washington Contract Logger Association (WCLA) — two sessions held in Western Washington. WCLA offers a five-day training course to participants, which includes one day of Forest Practices Rules training for operators seeking state certification. This course is offered twice a year in Western and every other year in Eastern Washington. Program staff and staff from other agencies (e.g., WDFW and Ecology) cover water typing, riparian and wetland management zones, cultural resources, road maintenance,

enforcement, and general information regarding the Forest Practices Application/Notification process.

110 WCLA members attended the sessions.

11. Road Maintenance and Abandonment Planning for Large Forest Landowners

11.1 Introduction

Forest Practices Rules include a Road Maintenance and Abandonment Program to help prevent sediment and hydrology-related impacts to public resources such as fish and water quality and to fix fish passage barriers. The Road Maintenance and Abandonment Plan (RMAP) rules require large forest landowners to plan and schedule all of the work needed on their lands necessary to improve and maintain their forest roads to meet standards specified in chapter 222-24 WAC. In an effort to minimize the economic hardship on small forest landowners, the 2003 Washington State Legislature passed a RMAP bill (HB1095) that modified the definition of “small forest landowner” and clarified how the RMAP requirements applied to them. Small forest landowners have the option to submit a “checklist” RMAP with each Forest Practices Application or Notification, rather than providing a plan for their entire ownership.

Large forest landowners were required to have all roads within their ownership covered under a DNR-approved Road Maintenance and Abandonment Plan (WAC 222-24-051) by July 1, 2006 and to bring all roads into compliance with forest practices standards by July 1, 2016. This includes all roads that were constructed or used for forest practices after 1974. An inventory and assessment of orphaned roads (i.e., forest roads and railroad grades not used for forest practices since 1974) must also be included in the plan. Forest Practices Rules require large forest landowners to prioritize road maintenance and abandonment work based on a “worst first” principle — starting with road systems where improvements would produce the greatest benefit for public resources. Within each plan, maintenance and abandonment work is prioritized as follows:

- Remove blockages to fish passage,
- Prevent or limit sediment delivery,
- Correct drainage or unstable side-cast in areas with evidence of instability that could adversely affect public resources,
- Disconnect the road drainage from typed waters,
- Repair or maintain roads that run adjacent to streams,
- Minimize road interception of surface and ground water.

11.2 Extension of RMAP Deadline

The Forest Practices Board (Board) amended WACs 222-24-050 and 222-24-051 to allow forest landowners to extend the deadline for completing the road work scheduled in their Road Maintenance and Abandonment Plans (RMAPs). The rule change allows for an extension of the deadline for up to five years, or until October 31, 2021. While landowners have made substantial progress in meeting their RMAP commitments, the Board has adopted this rule amendment because of the impact of the 2008 economic downturn on forest landowners. Landowners depend on the revenue from timber harvests to accomplish their road improvements. On August 9, 2011

the Board adopted the RMAP extension process. During the reporting period, two forest landowners requested and received approved RMAP extensions.

During this reporting period the Forest Practices Program has implemented standardized RMAP data collection and evaluation, and improved the reporting process. Particular attention remains focused on implementation consistency and standardization including even-flow and worst-first assessment and tracking. The program has made the following improvements:

- Applying consistent interpretation of accomplishment reporting elements,
- Standardizing data collection methods,
- Creating a statewide Geographic Information System (GIS) database for RMAP information, tracking, and reporting purposes for fish passage barriers,
- Improving data sharing and transparency,
- Adding two accomplishment reporting elements in order to provide a baseline for improving evaluation of even-flow:
 - Total number of fish passage barriers identified,
 - Total number of forest road miles identified needing improvement.

The Board has amended Board Manual Section 3 *Guidelines for Forest Roads*, which explains requirements and processes in the RMAPs program.

11.3 Road Maintenance and Abandonment Plan Implementation

Following are three tables:

Statewide Road Maintenance and Abandonment Plan Accomplishment Report 2001-2011;

Statewide Cumulative Road Maintenance and Abandonment Plan Accomplishment Report; and

Fish Passage Barrier Information for Large Landowners

These tables detail the progress that's been made by forest landowners from July 2001 until December 2011. The information provided in the tables is derived from data supplied by landowners as part of their annual accomplishment review. Following the *Statewide Road Maintenance and Abandonment Plan Accomplishment Report 2001-2011* is a description of each reporting element. In addition, several of the descriptions include reasons why some reporting element numbers fluctuate as well as providing more in-depth information on why earlier accomplishment reports differ from this report.

Statewide Road Maintenance and Abandonment Plan Accomplishment Report 2001-2011										
DNR Region	Number of approved RMAPs	Miles of forest road assessed	AVAILABLE 2012 Miles of forest road identified needing improvement*	Miles of road improved	Miles of road abandonment	Miles of orphaned roads	Number of fish passage barriers identified	Number of fish passage barriers corrected	Miles of fish habitat opened	Total of RMAP checklists from small forest landowners
Northeast	89	7,625	1,144	5,119	302	96	832	651	326	2,716
Northwest	27	5,614	1,349	2,477	1,008	726	560	336	101	1,573
Olympic	24	7,648	376	540	128	353	1,392	620	312	844
Pacific Cascade	74	21,942	3,417	9,140	640	712	2,978	1,891	1,028	3,268
South Puget Sound	18	7,906	929	1,064	442	235	619	353	182	700
Southeast	15	6,500	198	398	570	271	689	407	240	595
Statewide Totals	247	57,235	7,413	18,738	3,090	2,393	7,070	4,258	2,189	9,696

The content of this table is based upon data provided by landowners who are responsible for the facts and accuracy of the information presented herein.

Note:

In 2008, in order to get a sense of overall RMAP accomplishment, Large Forest Landowners with approved RMAPs made a good-faith effort to quantify the number of forest road miles needing improvement. DNR Forest Practices began reporting this number in the 2009 *Forest Practices HCP Annual Report* and calculated an annual accomplishment rate in subsequent reports. As described below under *Miles of Road Improvement* (and in the 2009 Annual Report) there were limitations with the data.

*Beginning with the 2011 RMAP reporting cycle (January 1, 2011 to December 31, 2011), landowners provided the new data element — “miles of forest road identified needing improvement” — this has been incorporated in the 2012 *Forest Practices HCP Annual Report* and has replaced the road miles that were initially reported in the 2009 *Forest Practices HCP Annual Report*. Miles of forest road identified needing improvement only captured information submitted by landowners who accomplishment reporting date is January 1, 2012 through April 15, 2012 for this reporting year. Totals for this column will be complete in 2013 HCP annual report due to large landowners reporting cycle.

Reporting Elements

Number of Approved RMAPs

The number of approved Road Maintenance and Abandonment Plans (RMAPs) represents those plans submitted mostly by large forest landowners. Many large landowners have more than one plan. There currently are 18 small forest landowners that could have opted to submit a “checklist” RMAP, but have chosen (in writing) to continue to follow their pre-2003 submitted RMAP, or have decided to submit a plan as described in 222-24-0511(2). This does not include land previously owned by a large landowner covered under an approved RMAP, which has been sold to a small forest landowner that chooses not to continue/implement the plan.

Previously, this number was reported as either:

- 1) *Number of landowners* having an approved RMAP (i.e., 11 landowners within one region would equal 11 RMAPs), or
- 2) *Number of approved RMAPs* (i.e., 11 landowners within one region, each having 3 separate RMAPs, would equal 33 RMAPs).

Beginning with the 2010 RMAP reporting cycle (compiled and reported the next spring), and thereafter, this number is reported as ‘**Number of approved RMAPs**’. The program chose this reporting strategy due to the importance of monitoring and tracking the number of approved plans rather than the number of landowners.

The number of approved RMAPs is dynamic in nature and can change over time. Large landowners may have one RMAP for large holdings or multiple RMAPs covering several blocks within the large holding. A landowner may choose to change their strategy on the number of RMAPs they manage. Property transactions can lead to an increase or decrease in the number of approved RMAPs. Small landowners that decide to discontinue their plan and obtain a checklist would result in a decrease of RMAPs reported. Another reduction in the number may be due to a large forest landowner’s decision to discontinue or reduce the amount of harvest, and submit a request to be released from the program due to qualifying as a small forest landowner (WAC 222-16-010).

Miles of Forest Roads Assessed

Landowners arrived at this number by conducting an inventory and assessment of all forest roads contained within a specific RMAP. This number includes roads that meet Forest Practices Rule standards as well as those that need to be improved.

This information is currently incomplete. Large landowners have not completed a full year reporting cycle using the new RMAP annual accomplishment reporting form. As a result only a partial year of data is reported this year. Once landowners complete a one year reporting cycle, data should be complete. Once complete, the data is not expected to fluctuate significantly over time.

Miles of Forest Road Identified Needing Improvement

This reporting element has not been formally tracked. In 2008, in order to get a sense of overall RMAP accomplishment, large forest landowners with approved RMAPs made a good-faith effort to quantify the number of forest road miles needing improvement. As described below under ‘Miles of Road Improvement’ (and in the 2009 *Forest Practices HCP Annual Report*) there were limitations with the data. Data from landowners that have a RMAP accomplishment reporting date after January 1, 2012 and prior to April 15, 2012 has been included in this Annual Report. Data from all other large forest landowners will be added to the numbers and included in the 2013 FPHCP Annual Report.

Miles of Road Improvement

For Road Maintenance and Abandonment Plan purposes, an improved road or road segment is defined as locations where actions have been taken to address issues associated with:

1. fish passage;
2. delivery of sediment to Typed waters;
3. existing or potential slope instability that could adversely affect public resources;
4. roads or ditch lines that intercept ground water, and
5. roads or ditches that deliver surface water to any Typed waters.

The improvements are to meet the current Forest Practices Rule requirements and are identified in the landowner plan, or problematic road conditions are subsequently discovered and actions are identified for inclusion within the time period associated with an approved RMAP.

DNR began reporting this number in 2008 for the 2009 *Forest Practices HCP Annual Report*. This reporting element has been difficult to calculate, leading to data inconsistencies. In addition to inconsistencies in how road improvement miles were measured, the greatest challenge was the lack of a clear, working definition as to what constitutes ‘road miles improved’. Beginning in reporting year 2010, and thereafter, this number is calculated using the definition above.

Once a landowner identifies that a road or road segment is brought up to current rule standards, it is captured in that year’s accomplishment report. Provided the DNR RMAP Specialist concurs, the road no longer will be identified as an RMAP obligation; therefore, the road or road segment would not be included in subsequent reporting years for miles of road needing improvement. Over time, the “miles of forest road identified needing improvement” will decrease as the “miles of road improved” increases. All roads not under an RMAP obligation are subject to standard Forest Practices Rules found in Chapter 222-24 WAC.

Miles of Road Abandonment

The number of road abandonment miles includes those that have been reported under an approved Road Maintenance and Abandonment Plan as abandoned per WAC 222-24-052(3).

Roads are not considered ‘officially abandoned’ until the DNR RMAP Specialist or Forest Practices Forester reviews the on-the-ground abandonment to ensure it meets the requirements. Reported road abandonment miles reflect some road miles that may not have been officially abandoned at the time this report was distributed.

Miles of Orphaned Roads

The number of miles of orphaned roads includes those that have been reported under an approved RMAP as orphaned. Inventory and assessment of orphaned roads will be used to help in the evaluation of the hazard-reduction statute and to determine the need for cost-share funding (RCW 76-09-300).

This information is challenging to track precisely due to the difficulty in locating orphaned roads on the landscape; they often are obscured by brush and forest cover and do not appear on any map. Some orphaned roads have been converted to active forest roads, some abandoned, and some may be scattered throughout the landscape with present status unknown.

Number of Fish Passage Barriers Identified

The total number of fish passage barriers includes those identified as part of an approved RMAP inventory.

In 2006, the revised water-type map was used as an additional tool to identify potential fish passage barriers. The total number of fish passage barriers will fluctuate over time, depending on when landowners verify on-the-ground physical characteristics and/or perform a protocol survey or other approved methodology for verifying fish presence or absence. In cases in which a stream type has been changed from ‘Type F’ to ‘Type N’—therefore negating the landowners’ obligation to remove fish passage barriers—sizing of the culvert will be assessed to ensure that it is able to pass a 100-year flood level event. Due to limited habitat gained, barriers also may be removed from the total number, if the structure was determined by WDFW to be sufficient to remain until the end of its functional life. Also, a barrier may be removed from the list if the structure was determined to play an important role in maintaining pond or wetland habitats; these decisions are made with stakeholder consultation.

Number of Fish Passage Barriers Corrected

The corrected number of fish passage barriers includes the total number that have been permanently removed or fixed with a fish-passable structure.

Previously, this number included some streams that had been downgraded from a ‘Type F’ to a ‘Type N’, which did not meet the intent of this reporting element. Beginning in the 2010 RMAP reporting cycle, and thereafter, this number is reported as the number of actual fish passage barriers corrected.

Miles of Fish Habitat Opened

The ‘miles of fish habitat opened’ refers to stream habitat opened for fish use after the fish passage barrier has been removed or replaced. This number is an estimate, due to the inability to always measure stream length on the ground. The measurement often is based upon aerial photos or maps.

This number of miles of fish habitat opened may fluctuate depending on when, or whether or not, a stream type verification survey occurs. If there are no protocol surveys to pinpoint exact breakpoints, this number is reflected by large forest landowner data or topographical information. It also is difficult for landowners to determine this number if the stream enters another ownership.

Number of Checklists Submitted by Small Landowners

The ‘number of checklists’ is the total submitted to the DNR regions by small forest landowners since the 2003 rule change. Small forest landowners may submit more than one RMAP Checklist.

Beginning in the 2007 RMAP reporting cycle and thereafter, checklists have been separated from the ‘Number of Approved RMAPs’ and tracked separately.

The following table, *Statewide Cumulative Road Maintenance and Abandonment Plan Accomplishment Report* displays the data cumulatively by year, rather than by DNR region.

**Statewide Cumulative Road Maintenance and Abandonment Plan
Accomplishment Report**

Year	Number of Approved RMAPs & Submitted Checklists	**Total # of RMAP Checklists from Small Forest Land-owners	Miles of Forest Road Assessed	Miles of Road Improved	Miles of Road Abandonment	Miles of Orphaned Roads	Miles of Habitat Opened	# of Fish Passage Barriers Corrected
2001-2002	4,066	---	15,484		645	502	52	46
2001-2003	5,530	---	27,072		1,007 / *362	1,246	175 / *123	355 / *309
2001-2004	7,401	---	48,051		1,587 / *580	1,944	647 / *472	1,217 / *908
2001-2005	8,419	---	58,843		1,856 / *269	2,107	775 / *128	1,363 / *146
2001-2006	9,950	---	59,220		2,068 / *212	2,313	982 / *207	1,819 / *456
**2001-2007	107	8,121	56,936	13,140	2,153 / *85	2,293	1,221 / *239	2,248 / *429
2001- 2008	130	8,628 / *506	57,442	15,019 / *1,879	2,431 / *278	2,305	1,448 / *227	2,871 / *623
2001-2009	126	8,804 / *176	57,442	16,195 / *1,176	2,621 / *190	2,305	1,569 / *121	3,141 / *270
2001-2010	262	9,187 / *383	57,442	18,475 / *2,280	2,915 / *294	2,333	1,772 / *203	3,769 / *628
2001-2011	247	9,696 / *509	57,235	18,738 / *263	3,090 / *175	2,393	2,189 / *417	4,258 / *489

* Number represents the increase from the previous year's report.

** Beginning in reporting year 2007 and thereafter, checklists have been separated from the 'Number of Approved RMAPs' and tracked separately.

Fish Passage Barriers

In addition to the fish barrier information in the above tables, the following table, "*Fish Passage Barrier Information for Large Landowners*" displays how many barriers have been repaired cumulatively since 2001; the total repaired in calendar year 2011, and the percent of total repaired as of December 31, 2011.

Fish Passage Barrier Information for Large Forest Landowners

DNR Region	Number of fish passage barriers identified*	Number of fish passage barriers corrected from 2001-2011	Number of fish passage barriers corrected in 2011	% of total fish passage barriers corrected as of 12/31/2011
Northeast	832	651	18	78%
Northwest	560	336	82	60%
Olympic	1,392	620	196	45%
Pacific Cascade	2,978	1,891	217	63%
South Puget Sound	619	353	9	57%
Southeast	689	407	67	59%
Totals	7,070	4,258	589	60%

*This number may fluctuate annually as water types are confirmed and/or modified.

11.4 Washington Department of Fish and Wildlife Efforts

Biologists from the Washington State Department of Fish and Wildlife (WDFW) provide an essential role in the review and implementation of RMAPs. In Fiscal Year 2012, WDFW biologists reviewed approximately 650 Road Maintenance and Abandonment Plans statewide and issued approximately 400 Hydraulic Project Application (HPA) permits associated with those plans. As many HPAs include multiple projects or locations, these 400 HPAs equate to more than 700 projects or locations associated with RMAPs.

WDFW biologists reviewed RMAPs as landowners made annual changes pertaining to fish passage structures, fish habitat, stream typing, and sediment delivery. Ownership changes have also been occurring at a relatively high rate, which require additional RMAP revisions and review. The complexity of technical assistance and HPAs needed from WDFW biologists has increased as work is shifting from the easier barrier fixes to the more challenging crossing structures, especially those higher in the watersheds.

12. Tribal Relations

12.1 Introduction

Under the authority of the Forest Practices Act, chapter 76.09 RCW, the Forest Practices Board's rules promote cooperative relationships and agreements with Indian tribes ([RCW 76.09.010](#), [\(WAC 222-12-010\)](#)), and direct DNR Forest Practices staff to consult and cooperate with affected Indian tribes when developing and implementing many parts of the Forest Practices Program. These rules define “*affected Indian tribe*” as “*any federally recognized Indian tribe that requests in writing information from the department on forest practices applications and notification filed on specified areas*” ([\(WAC 222-16-010\)](#)).

The federally recognized Indian tribes in Washington State are key cooperators in the Forest Practices Program. Because of the sovereign status of these tribal governments, the relationship between DNR and the tribes is government-to-government. The [Commissioner's Order on Tribal Relations](#) serves as the department's policy on tribal relations.

Tribes in Washington—as well as some tribes in Oregon and Idaho—participate in the Forest Practices Program to varying degrees. Tribes are members of the Adaptive Management Program's committees, Forests and Fish Policy Committee and Cooperative Monitoring, Evaluation, and Research Committee, the Board's Timber/Fish/Wildlife Cultural Resources Roundtable (formerly “Committee”; see 12.3 below), and DNR's Small Forest Landowner Advisory Committee. Additionally, tribal representatives work with staff from DNR's Forest Practices Program and other agencies and organizations to draft Forest Practices Rules and Board Manual guidelines, review Forest Practices Applications, Notifications, and Alternate Plans, provide technical onsite expertise in DNR's interdisciplinary team reviews, and complete water and wetland typing.

This chapter provides information on two areas of forest practices work specific to tribal relations. First, section 12.2 provides an update on the rule required forest landowner-tribe meetings and process improvements regarding implementing and tracking. Second, section 12.3 provides an update on the work being accomplished by Timber/Fish/Wildlife Cultural Resources Roundtable.

12.2 Landowner/Tribal Meetings and WAC 222-20-120 Update

One of the reporting elements in the *Forest Practices HCP* is the landowner-tribe meetings required by WAC 222-20-120 when a forest practice activity involves a cultural resource, and the process improvements being made by the Forest Practices Program to more consistently implement this rule. See Administrative and Regulatory Updates in [Table 1.1 FPHCP Reporting Elements](#) (Chapter 1. Introduction, page 9). The Forest Practices Board's definition of *cultural resources* is “*archaeological and historic sites and artifacts, and traditional religious, ceremonial and social uses and activities of affected Indian tribes.*” ([\(WAC 222-16-010\)](#)).

In February 2012, the Board adopted amendments to [WAC 222-20-120](#) (see Appendix #4). These amendments were consensus recommendations from the Timber/Fish/Wildlife Cultural Resources Roundtable designed to accomplish the following:

- In the rule title, call attention to the fact that the rule includes requirements for applications that involve cultural resources.
- Clearly state that DNR is to notify affected Indian Tribes of proposed forest practices based on the tribe's designated geographic areas of interest, rather than only those applications that a tribe might have a concern with.
- Resolve ongoing issues with the requirement that the landowner and the Tribe(s) "shall meet" when the forest practices involves a cultural resource.
- Remove the requirement that the tribe(s) must determine whether a landowner-Tribe agreed to plan will or will not be sent to the Department of Archaeology and Historic Preservation.

The main issue with the rule was the landowner-tribe meeting requirement. When an application involved a cultural resource, the landowner and the affected Indian Tribe(s) were required to meet with the objective of agreeing on a plan to protect the cultural resource. Therefore, the rule required the Tribe to meet with the landowner even if the Tribe had no concern about the proposed forest practices. The result of not meeting was a disapproved application. The amendments to the rule specify the meeting is "at the Tribe's discretion" and provide two new options to comply with the meeting requirement:

- a. The Tribe verifies they declined the meeting (new subsection (3)(b));
- b. The landowner documents good faith, but unsuccessful, attempts to meet with the Tribe(s) (new subsection (3)(c)).

None of the rule amendments modified how the Forest Practices Program notifies an affected Indian Tribe of the applications and notifications the Tribe is interested in, that is via the Forest Practices Application Review System (FPARS). FPARS is an internet-based review and permitting system for Washington's Forest Practices permits. A Tribe simply signs up by completing an FPARS Reviewer Profile, and then automatically receives all applications and notifications that meet the parameters of the Tribe's Reviewer Profile(s).

In anticipation of the new rule's emphasis on Tribes' geographic areas of interest and cultural resources contacts, DNR initiated communication with the Tribes. In December 2011, the department sent a letter (see Appendix #5) to each Tribal Chair/Council of the 29 federally recognized Tribes in Washington, two federally recognized tribes in Oregon, three federally recognized Tribes in Idaho, and five tribal organizations in Washington active in forest practices issues. The goal of the letter was to:

- Confirm the tribe's/organization's preferred contact(s) for Forest Practices Board rule makings.

- Confirm the tribe's/organization's geographic areas of interest for receiving proposed applications and notifications via FPARS.
- Request the tribe/organization identify to DNR their preferred contact(s) when a forest practice involves a cultural resource.

The Forest Practices Program followed-up with each Tribe's and organization's FPARS contact of record. Many Tribes provided updated contact information, including designating a primary and a backup contact for cultural resources issues. This updated information was input in FPARS. Currently, all but one of the federally recognized tribes in Washington has chosen to review Forest Practices Applications and Notifications.

The Forest Practices Program also expanded the cultural resources related information in its Forest Practices Risk Assessment Tool (FPRAT). The Forest Practices Risk Assessment Tool is the GIS-based interactive mapping and reporting tool that allows Forest Practices staff to see the geographic relationships between environmental features and the location of proposed forest practices. Now, in addition to the cultural resources site data from the Department of Archaeology and Historic Preservation, Forest Practices staff also reviews the following map layers when classifying proposed forest practices:

- Historical Map Index 1893-1950 (historical US Geological Service and Army Mapping Service maps for Washington State);
- Government Land Office (GLO) Maps (historical maps);
- Tribal Cultural Resources Contacts (each tribe's/organization's designated geographic area of interest for cultural resources and their cultural resources contact).

During this reporting period (July 1, 2011 to June 30, 2012) there were 57 Forest Practices Applications that required a landowner/tribe meeting, and all of these meetings took place.

12.3 Update on Timber/Fish/Wildlife Cultural Resources Roundtable

Background

The Timber/Fish/Wildlife Cultural Resources Roundtable (Roundtable) originated as the Timber/Fish/Wildlife Committee of the 1987 Timber/Fish/Wildlife collaboration, and has since been active in various cultural resources endeavors. In May 2011, the Forest Practices Board formally accepted the [Roundtable's charter](#), which formally changed the committee's name to Timber/Fish/Wildlife Cultural Resources Roundtable.

The Roundtable serves the Board by providing insight on cultural resources issues affecting forest practices, providing consensus rule making recommendations for the Board's consideration, and as required by [WAC 222-08-160](#), annually reporting on behalf of the department on how implementation of the Cultural Resources Protection and Management Plan is working. Accordingly, the Roundtable now is on the [Board's website](#). Webpage materials currently include the charter, monthly agendas and meeting notes, and the Cultural Resources Protection and Management Plan.

Today's Roundtable includes active participation by tribal representatives, especially Puyallup Tribe of Indians, Confederated Tribes and Bands of the Yakama Nation, Suquamish Tribe, Quinault Indian Tribe, Cowlitz Indian Tribe, and Jamestown S'Klallam Tribe, forest landowners representing and members of Washington Forest Protection Association (WFPA), and state agency representatives from DNR Forest Practices, DNR Forest Resources and Conservation, and the Department of Archaeology and Historic Preservation (DAHP). Other interested tribes and organizations, including the Washington Farm Forestry Association (WFFA), are kept informed of the Roundtable's work through monthly meeting agendas and notes sent via e-mail. Currently a total of 25 tribal representatives, 11 landowner representatives, and 10 state agency representatives have requested these ongoing mailings.

Cultural Resources Protection and Management Plan

In 2001, the Forest Practices Board asked the Roundtable (then Committee) to collaboratively develop a multi-caucus proposal to address the two cultural resources commitments in the [*Forests and Fish Report*](#). Appendix G and Appendix O of the report specifically made the commitment to 1) cooperatively develop a watershed analysis cultural resources module and 2) complete a cultural resources plan to enhance cooperative relationships between landowners and Tribes.

In 2003, the Board accepted the Roundtable's (then Committee's) consensus [*Cultural Resources Protection and Management Plan*](#) as fulfillment of both these *Forests and Fish Report* commitments. This is because its appendices include a watershed analysis cultural resources module and rules to implement the module. In May 2005, after completing the rule making process, the Board formally approved the watershed analysis cultural resources module for inclusion in Board Manual Section 11, *Standard Methodology for Conducting Watershed Analysis* as [Appendix J](#), and adopted the rules in [chapter 222-22 WAC](#) implementing the module.

The Forest Practices HCP (Washington DNR, 2005) incorporates the *Cultural Resources Protection and Management Plan* as [Appendix I](#).

The *Cultural Resources Protection and Management Plan* is open to updates and changes to reflect progress, completion of tasks, and changes in priorities and direction of the plan. Therefore, updates are added occasionally by the Roundtable. The last update was October 2008.

Ongoing and Current Work

The Roundtable and the Forest Practices Program continue to implement commitments in the *Cultural Resources Protection and Management Plan*. Resolving other cultural resources issues related to forest practices also is ongoing work by the Roundtable and the program.

The three implementation commitments specific to the Forest Practices Program relate to:

- notice to Tribes of proposed applications and notifications,
- landowner-Tribe meetings required by WAC 222-20-120, and

- classification of applications and notifications involving cultural resources.

As discussed in section 12.2, the Forest Practices Program provides automatic and ongoing notice to tribes of applications and notifications via the Forest Practices Application Review System (FPARS), and has provided updated program guidance on implementing amended WAC 222-20-120. Regarding classifying applications and notifications involving cultural resources, the Forest Practices program has added new links to historical maps and tribe's/organization's contact information in its Forest Practices Risk Assessment Tools (FPRAT). The Program also continues to assist the Department of Archaeology and Historic Preservation (DAHP) in updating their archaeological and historic sites database. This cultural resources data is used by the Forest Practices Program to appropriately classify Forest Practices Applications and Notifications involving cultural resources. Specific funding is provided to the Department of Archaeology and Historic Preservation through an interagency agreement with DNR. Funding for fiscal year 2011-2012 was \$34,053, which provides a half time position at DAHP. The Roundtable continues to advocate for a full time position at the Department of Archaeology and Historic Preservation.

For fiscal year 2011-2012, the Roundtable's work priorities were as follows:

- On behalf of DNR, the Roundtable reported to the Forest Practices Board on implementation of the *Cultural Resources Protection and Management Plan*. This annual report provides the Board with continued review of how the plan's voluntary processes are working, per WAC 222-08-160 (1). See the 2011 report at [August 9, 2011 Board Meeting](#) (in 2011 August Meeting Materials, scroll to the report). These reports are in August so the Board can use this information for their November planning meetings.
- As a part of staff reports at regular Board meetings, the Roundtable provided its quarterly reports in the form of its work plan titled “Action Items”.
- The Roundtable completed its work on clarifying language for WAC 222-20-120. The Board unanimously adopted the Roundtable's consensus language on February 14, 2012 and requested annual reports on implementation of the rule starting May 2013.
- The Roundtable continued its work on developing cultural resources guidance documents and tools—as agreed to in the *Cultural Resources Protection and Management Plan*. Utilizing information gathered at the 2010 Roundtable workshop and subsequent project scoping, the Roundtable is drafting a number of guidance documents on implementing the plan as well as other helpful cultural resources information. Most recently, a cultural resources training session was video-taped as one of the guidance tools.
- The Roundtable's cultural resources educational efforts for the state's small forest landowners—also a commitment in the Cultural Resources Protection and Management Plan—continues through the assistance of the Washington State University Extension Service. Numerous workshops continue to be conducted around the state. Some workshops draw a hundred or more attendees.
- The Roundtable worked on developing its logo by commissioning a Puyallup Tribe artist. The artist will use the existing TFW logo and create a tribal designed moon/sun.

- In preparation for its next annual report at the August 2012 Board meeting, the Roundtable wrote and distributed a survey regarding use of the principles in the Cultural Resources Protection and Management Plan. Forest landowners, forest land managers, and tribes active in forest practices were sent the survey via SurveyMonkey. The Roundtable is compiling survey results.

13. Washington State Legislature

13.1 Introduction

In 1974, the Washington State Legislature passed the Forest Practices Act declaring that:

“forest land resources are among the most valuable of all resources in the state; that a viable forest products industry is of prime importance to the state's economy; that it is in the public interest for public and private commercial forestlands to be managed consistent with sound policies of natural resource protection; that coincident with maintenance of a viable forest products industry, it is important to afford protection to forest soils, fisheries, wildlife, water quantity and quality, air quality, recreation, and scenic beauty” (RCW 76.09.010).

The Act was the State's first comprehensive law addressing the impacts of forest practices on the environment. The Act also created the Forest Practices Board, which sets the specific standards that are the basis for the Forest Practices Program.

Each year, DNR monitors laws being passed by the Legislature for those that could impact the Forest Practices Program. The table in section 13.2 describes the laws passed in the 2011 Legislative session that could affect the Forest Practices Program. However, there were no new laws that would result in a change in protection of habitat for the species covered in the Forest Practices HCP.

The 2012 legislation had a substantial impact on the Forest Practices Division. Most notably was 2ESSB 6406, which integrates hydraulic projects into the application process; E2SHB 2238 that pairs required investments in compensatory environmental mitigation with programs that are referenced in Title 76 RCW; 3ESHB 2127 on fiscal matters; and ESB 6074, a jobs in the environment bill that appropriated \$10 million to the Recreation and Conservation Funding Board for the Family Forest Fish Passage Program.

13.2 Provisions of Selected 2012 Washington State Laws

Selected 2012 Washington State Laws Affecting the Forest Practices Program				
Bill #	Title ("AN ACT relating to ...")	Provisions	Status	Effect*
2ESSB 6406	Modifying programs that provide for the protection of the state's natural resources	<ul style="list-style-type: none"> ▪ Part 1 focused on Department of Fish and Wildlife (WDFW) statutes; among other provisions adds language that addresses integration of the Hydraulics Permit Approval (HPA) into the Forest Practices Application (FPA) for forestry activities ▪ Part 2 integrates the HPA for forestry activities into the FPA following: (1) the incorporation of fish protection standards of 77.55 RCW into rules governing forest practices; and (2) approval of technical guidance for forestry-related hydraulic projects by December 31, 2013 <ul style="list-style-type: none"> • Extends application review period from 30 to 60 days in order to incorporate WDFW concurrence review process for hydraulic projects affecting fish bearing waters greater than 5% gradient, unconfined streams and fill within the 100-year floodplain • Eliminates Forest Practices Act requirement of 30-day review of draft Forest Practices Board rules by WDFW and counties. • Increases the general duration of a FPA from two to three years, and allows for a renewal of up to three years. • Increases Class II, III and IV-Special FPA fees from \$50 to \$150; increases Class IV-General FPA (conversion) fee from \$500 to \$1,500; Class II, III and IV-Special fees for small forest landowners (76.09.450 RCW) increases from \$50 to \$100; revenue is directed to new account set up for the purpose of implementing the Forest Practices Act and rules • If the Forest Practices Board does not complete rule-making by December 31, 2013 the fees revert back to current fee structure ▪ Part 3 of the bill amends chapter 43.21C RCW (SEPA) and 90.48 RCW Water Pollution Control Act <ul style="list-style-type: none"> • Directs Department of Ecology (Ecology) to increase certain categorical exemption thresholds and update the SEPA checklist • Proposes methods to integrate SEPA with the Growth Management Act (GMA) • Appoints advisory committee to assist with efforts • 90.48 RCW amendments are regarding municipal storm water permits 	Passed Legislature on April 10, Governor signed on May 2	Direct

Selected 2012 Washington State Laws Affecting the Forest Practices Program				
Bill #	Title ("AN ACT relating to ...")	Provisions	Status	Effect*
E2SHB 2238	Pairing required investments in compensatory environmental mitigation with existing programs currently referenced in Title 76 RCW...	<ul style="list-style-type: none"> ▪ Directs Ecology and DFW to allow programs that are related to environmental mitigation, or explore the potential of developing new programs, to utilize the Forestry Riparian Easement Program, the Family Forest Fish Passage Program or the Rivers and Habitat Open Space Program to mitigate for environmental impacts where compatible with existing regulations ▪ DNR and the Small Forest Landowner Office may be used as a resource to identify potential projects ▪ Ecology and DFW, in consultation with stakeholders, must report to the legislature by December 31, 2012 and 2013 on successes, constraints and feasibility of developing new programs for this purpose 	Passed Legislature on March 5, Governor signed on March 23	Indirect
3ESHB 2127	Fiscal matters...	<ul style="list-style-type: none"> ▪ Forests and Fish Support Account (FFSA) appropriation increased by ~\$1.8M ▪ Increases FFSA participation grants by \$500k to tribes and \$185k to NGOs ▪ Limits indirect charges and requires performance based contracts for participation grants ▪ Increases pass-through to Ecology and DFW by \$230k and appropriates from FFSA ▪ Forest Practices Application account appropriation of \$780,000 (2ESSB 6406) ▪ DNR, in partnership with Ecology, will deliver a report to the governor, appropriate committees of the legislature and the Forest Practices Board by September 1, 2012 documenting adaptive management program reforms implemented, or recommended, that streamline existing processes to increase program efficiencies and effectiveness ▪ * While not in the bill, the agency detail calls for a \$80K operating budget reduction for Forest Practices 	Passed Legislature on April 11, Governor signed on May 2nd	Indirect
ESB 6074	Funding Capital Projects	<ul style="list-style-type: none"> ▪ Appropriated \$10M to the Recreation and Conservation Funding Board for funding the Family Forest Fish Passage Program 	Passed Legislature on April 11, Governor signed on April 23	Indirect

14. Information Technology

14.1 Information Technology-Based Tools

Information technology-based tools provide significant support for the administration of the Forest Practices Program. These tools include information systems, such as the Forest Practices Application Review System (FPARS) and the Forest Practices Risk Assessment Tool, as well as discrete data sets, such as the DNR Hydrography Geographic Information System (GIS) data layer that forms the basis of the water typing system. Within DNR, the Forest Practices Division works closely with the Information Technology Division to develop and maintain these information technology tools.

Forest Practices Application Review System

The Forest Practices Application Review System (FPARS) streamlines the processing of Forest Practice Applications and provides the public with the ability to review proposed forest practices activities. It makes use of the Internet, document imaging and management technology, interactive geographic information system technology, and the Oracle database system to collect Forest Practices Application/Notification information, and distribute them for regulatory and public review. FPARS also supports risk assessments of proposed forest practices activities, and archiving Forest Practices Applications/Notifications.

A total of 5,302 Forest Practices Applications/Notifications (received or renewed) were entered into the Forest Practices Application Review System between July 1, 2011, and June 30, 2012. Currently, 1,143 reviewers receive notification of new applications in their area of interest. Another 577 individuals search the website for application and notification images on demand.

Forest Practices Risk Assessment Tool

The Forest Practices Program continues to support the Forest Practices Risk Assessment Tool. This interactive mapping and reporting tool is available on DNR's web pages. It gives DNR Forest Practices Program staff, in both the division and the region offices, access to GIS data related to the implementation of the Forest Practices Rules. It allows staff to see the geographic relationships between environmental features, including streams with fish habitat, potential landslide areas, archaeological sites, northern spotted owl habitat, and the locations of proposed forest practice activities. There currently are more than 70 map layers that can be displayed or queried.

We continually work to improve the Risk Assessment Tool, adding map layers and functionality to better serve Forest Practice staff. In the current reporting year, we added a "Cultural Resources" data folder. This folder contains layers with links to US Geological Survey maps, US Army Mapping Service maps, and Government Land Office historical maps. These historical maps can be used to assist in the investigation of possible cultural resources in the vicinity of

proposed forest practices. We also added a map layer that provides the geographic extent of 29 tribes' area of interest and tribal contacts regarding cultural resources.

The DNR Hydrography Data Layer and Water Type Updates

The Forest Practices GIS section updates DNR's hydrography data layer with water typing information received on Water Type Modification Forms (WTMF). These updates are based on direct observation in the field by DNR personnel, forest landowners, fish survey contractors, and others. Between July 1, 2011, and June 30, 2012, DNR entered approximately 3,906 updates into the Hydrography data set based on 882 Water Type Modification Forms. The estimated backlog of Water Type Modification Forms is approximately 1200.

15. Forest Practices Program Budget

15.1 Introduction

The Forest Practices Program confronted the 2011-2013 biennium with an enacted legislative reduction of \$2.4 million in operating funds. This included the mandated three percent salary cut. The Forest Practices Program's primary funding sources continued to be the Forests and Fish Support Account (FFSA) for the Adaptive Management Program and State General Fund for core activities. These funding sources provided continued support for the scientific research to sustain the state's Forest Practices Habitat Conservation Plan (HCP), Clean Water Act (CWA) assurances and participation grants to tribal and non-profit public interest organizations.

15.2 2011-2013 Biennial Allocation by Activity

The Forest Practices Program re-organized functional services into four core activities. The main difference was to separate Program Development from Act and Rules to accurately reflect Board support and rulemaking and Board Manual development. The following lists what is funded by functional activities.

Forest Practices Act & Rules (Operations)	Adaptive Management Program	Small Forest Landowner Office	Program Development
Application Processing	Adaptive Management Staff	SFLO Program and Operations	Forest Practices Board
Compliance Monitoring	Adaptive Management Projects	Forest Stewardship and Landowner Assistance	Rule Making/Board Manual
Enforcement	Forest and Fish Support Account		
RMAPS	Participation grants to tribes/tribal organization		
IT/GIS Development & Support	Participation grants to non-profits		
Program Development			
Stakeholder Assistance Training			

The 2011-13 biennial allocation for the Forest Practices Program exceeds the \$22.7 million funding level minimum measured in 2005 dollars (as identified in the settlement agreement among the Conservation Caucus, State of Washington, and Washington Forest Protection Association, May 2012 – Attachment 1, Section 7.1) (Appendix 6). The Forest Practices base biennial allocation is reflected below (Table 1).

Table 1: 2011-2013 Biennium Allocation

2011-2013 Base Allocation by Activity	FTEs	Total State Funds
Forest Practices Act & Rules	99.86	\$16,683,200
Forest Practices Manage Adaptively	2.00	\$627,500
Small Forest Landowner	2.00	\$372,100
Program Development	5.00	\$710,300
Forests & Fish Support Account	2.00	\$7,849,300
TOTALS	109.86	\$26,242,400

The actual expenditures for fiscal year 2012 (July 1, 2011 through June 30, 2012) are reflected in the following table (Table 2). The information in both tables does not include the FTEs and budget for the federally funded portion of the stewardship grants or for the state capitol program in the small forest landowner/stewardship office.

Table 2: FY 12 Expenditures (July 1, 2011 – June 30, 2012)

FY 2012 Expenditures by Activity	FTEs	Total State Funds
Forest Practices Act & Rules	93.74	\$7,897,535
Forest Practices Manage Adaptively	1.29	\$203,660
Small Forest Landowner	2.00	166,993
Program Development	4.54	339,222
Forests and Fish Support Account (FFSA)	1.70	3,225,709
TOTALS	103.27	\$11,833,119

15.3 Full Time Employees

The Forest Practices Program experienced a position vacancy rate of 7 percent during fiscal year 2012. The reasons for the vacancy rate are primarily due to promotions, retirements, transfers, and recruitment delays. The following table (Table 3) reflects where the vacancies occurred in the first fiscal year of this biennium.

Table 3: Full-Time Equivalents (FTEs)

2011-2013 Allocation by Activity	11-13 BN FTEs	Actual FY 12 FTEs	Difference
Forest Practices Act & Rules	99.86	93.74	6.12
Forest Practices Manage Adaptively	2.00	1.29	0.71
Small Forest Landowner	2.00	2.00	
Program Development	5.00	4.54	0.46
Forests & Fish Support Account	2.00	1.70	0.30
TOTALS	110.86	103.27	7.59

16. Washington Timber Harvest Report

16.1 Introduction

The following Washington State Timber Harvest Report summary, *Timber Harvest by Owner Class and Region*, provides a historical record of timber harvest activities, by landowner class from 1990 to 2011. It includes harvest data for Eastern and Western Washington.

Timber Harvest by Ownership and Region

Million Board Feet ¹							
Calendar Year	Owner Class					State Region ²	
	State Total	Private ³	DNR ⁴	Other State ⁵	Federal	Western	Eastern
1990	5,849	4,330	657	30	832	4,674	1,175
1991	5,104	3,822	535	33	714	4,014	1,090
1992	5,018	4,030	476	43	469	3,955	1,063
1993	4,329	3,513	461	17	338	3,307	1,022
1994	4,086	3,552	323	7	204	3,178	908
1995	4,392	3,720	496	20	156	3,417	975
1996	4,249	3,529	600	33	87	3,273	976
1997	4,245	3,390	645	31	179	3,258	989
1998	4,022	3,319	546	36	121	3,129	892
1999	4,383	3,580	662	15	126	3,375	1,008
2000	4,177	3,507	559	17	94	3,224	953
2001	3,716	3,116	496	26	79	2,842	874
2002	3,582	3,000	457	40	85	2,704	878
2003	4,234	3,413	651	35	136	3,538	696
2004	3,946	3,212	588	51	96	3,175	770
2005	3,730	3,024	594	32	81	2,958	771
2006	3,483	2,946	404	59	75	2,720	763
2007	3,264	2,685	448	36	95	2,613	651
2008	2,758	2,067	515	71	104	2,328	430
2009	2,217	1,423	641	52	101	1,914	303
2010	2,739	1,828	764	27	118	2,387	352
2011	2,984	2,206	637	33	108	2,562	422

¹Scribner log scale.

²Boundary between the two regions is the county lines along the crest of the Cascade Range.

³ Private includes large forest landowners, small forest landowners, industrial timber owners, and Native American forests.

⁴Harvests from lands managed by the Washington State Department of Natural Resources (DNR).

⁵Includes public lands owned by cities, counties, public utilities, and state agencies other than Department of Natural Resources.

17. References

- Berg, K., S. Cantrell, M. Doumit, K. Godbout, D. Halabisky, C. Lipton, R. Meier, V. Musselman, M. Perez-Gibson, T. Robinson, P. Swedeon, C. Turley, D. Whipple. 2009. Northern Spotted Owl Policy Working Group - Final Report to Forest Practices Board. Available at: http://www.dnr.wa.gov/Publications/bc_fp_materials_20100210_01_nsfinalreport.pdf.
- McDade, M.H., F.J. Swanson, W.A. McKee, J.F. Franklin and J. Van Sickle. 1990. Source distances for coarse woody debris entering small streams in western Oregon and Washington. Can. J. For. Res. 20:326-330.
- National Marine Fisheries Service (NMFS). 2000. Guidelines for electrofishing waters containing salmonids listed under the Endangered Species Act. NMFS Northwest Region, June 2000, 5p. << <http://www.nwr.noaa.gov/ESA-Salmon-Regulations-Permits/4d-Rules/upload/electro2000.pdf> >>. "Adapted from NMFS (June 2000) and WDFW Electrofishing Guidelines for Stream Typing (May 2001). FWS.
- Schuett-Hames, D. and R. Conrad. March 2005. Validation of the Western Washington Riparian Desired Future Condition (DFC) Performance Targets in the Washington State Forest Practices Rules with Data From Mature, Unmanaged, Conifer-Dominated Riparian Stands. Northwest Indian Fisheries Commission, Olympia, Washington. Available at: http://sharepointcms/BusinessPermits/Topics/FPAdaptiveManagementProgram/Pages/fp_am_cm_er_publications.aspx
- U.S. Fish and Wildlife Service, et.al. 1999. Forests and Fish Report. Available at: http://www.dnr.wa.gov/BusinessPermits/Topics/ForestPracticesHCP/Pages/fp_hcp.aspx
- U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS). 2006. Final Environmental Impact Statement – For the Proposed Issuance of Multiple Species Incidental Take Permits or 4(d) Rules for the Washington State Forest Practices Habitat Conservation Plan. Washington Department of Natural Resources, Forest Practices Program, Olympia, Washington. Available at: http://www.dnr.wa.gov/BusinessPermits/Topics/ForestPracticesHCP/Pages/fp_hcp_feis.aspx
- Washington State Department of Ecology. State Environmental Policy Act, Environmental Checklist. Available at: <http://www.ecy.wa.gov/programs/sea/sepa/forms.htm>.
- Washington State Department of Ecology. 2009. 2009 Clean Water Act Assurances Review of Washington's Forest Practices Program. Available at: <http://www.ecy.wa.gov/programs/wq/nonpoint/ForestPractices/CWAassurances-FinalRevPaper071509-W97.pdf>
- Washington DNR. 2005. Final Forest Practices Habitat Conservation Plan. Washington Department of Natural Resources, Forest Practices Program, Olympia, Washington. Available at: http://www.dnr.wa.gov/BusinessPermits/Topics/ForestPracticesHCP/Pages/fp_hcp.aspx.

Washington DNR. 2008. Forest Practices Adaptive Management Program Strategic Goals, Objectives and Tasks. Washington Department of Natural Resources, Forest Practices Division, Adaptive Management Program. Olympia, Washington.

Washington DNR. 2008. Watershed Analysis Worksheet and Instructions. Washington Department of Natural Resources, Forest Practices Division. Olympia, Washington. Available at: http://www.dnr.wa.gov/Publications/fp_form_fpanwau.pdf

Washington DNR. 2008. A Report to the Legislature: Road Maintenance and Abandonment Plan Checklist Report. Washington Department of Natural Resources, Forest Practices Division. Olympia, Washington. Available at: www.dnr.wa.gov/Publications/fp_sflo_rmap_leREPORT_2008.pdf.

Washington DNR. 2009. Forest Practices Habitat Conservation Plan Annual Report (July 1, 2008 – June 30, 2009). Washington Department of Natural Resources, Forest Practices Division, Olympia, Washington. Available at: http://www.dnr.wa.gov/BusinessPermits/Topics/ForestPracticesHCP/Pages/fp_hcp_annualrep09.aspx.

Washington DNR. 2009. Biennium 2006-2007 Compliance Monitoring Summary Report. Washington Department of Natural Resources, Forest Practices Division. Olympia, Washington. Available at: http://www.dnr.wa.gov/Publications/fp_cm_biennial_report_06-07.pdf.

Washington DNR. 2010. Strategic Plan 2010-2014: *The Goldmark Agenda*. Washington Department of Natural Resources, Olympia, Washington. Available at: http://www.dnr.wa.gov/Publications/em_strategic_plan_2010_goldmark_agenda.pdf.

Washington DNR. 2010. Compliance Monitoring Program Description. Revised January 2010. Washington Department of Natural Resources, Forest Practices Division. Olympia, Washington. Available at: http://www.dnr.wa.gov/Publications/fp_cm_program_design.pdf.

Washington Forest Practices Board. 2005. Washington forest practices board manual, Section 22. Washington Department of Natural Resources, Olympia, Washington. Available at: http://www.dnr.wa.gov/Publications/fp_board_manual_section22.pdf.

Washington Forest Practices Board. 2007 Washington Forest Practices Rules. Washington Department of Natural Resources, Olympia, Washington. Available at: http://www.dnr.wa.gov/BusinessPermits/Topics/ForestPracticesRules/Pages/fp_rules.aspx

Washington State Cooperative Monitoring, Evaluation and Research Committee. 2012. Fiscal Year 2013 CMER Work Plan. Available at: http://www.dnr.wa.gov/Publications/bc_cmer_workplan.pdf.

18. List of Acronyms

Agencies and Organizations

the Board	Washington Forest Practices Board
DAHP	Department of Archaeology and Historic Preservation
DNR	Washington State Department of Natural Resources
RCO	Recreation and Conservation Office
SFLO	Small Forest Landowner Office
SRFB	Salmon Recovery Funding Board
USFWS	United States Fish and Wildlife Service
WCLA	Washington Contract Loggers Association
WDFW	Washington Department of Fish and Wildlife
WDOT	Washington Department of Transportation
WFFA	Washington Farm Forestry Association
WFPA	Washington Forest Protection Association
Ecology	Washington State Department of Ecology

Technical Terms

CMZ	Channel Migration Zone
DFC	Desired Future Condition
EBAI	Equivalent Area Buffer Index
GF-State	General Fund - State
GIS	Geographic Information System
FTE	Full Time Equivalent
FY	Fiscal Year
FPA/N	Forest Practices Application/Notification
FPRAT	Forest Practices Risk Assessment Tool
ICN	Informal Conference Note
LGE	Local Government Entity
LHZ	Landslide Hazard Zonation
LWD	Large Woody Debris
NTC	Notice to Comply
RMZ	Riparian Management Zone
SWO	Stop Work Order
Type F	Fish-bearing stream
Type Np	Non fish-bearing, perennial stream
Type Ns	Non fish-bearing, seasonal stream
WAU	Watershed Administrative Unit
WRIA	Water Resource Inventory Area

Personnel, Programs, Plans and Reports

AMP	Adaptive Management Program
AMPA	Adaptive Management Program Administrator
CMER	Cooperative Monitoring, Evaluation, and Research Committee
CMP	Compliance Monitoring Program
FFFPP	Family Forest Fish Passage Program
FFSA	Forests and Fish Support Account
FPARS	Forest Practices Application Review System
FPF	Forest Practices Forester
FPHCP	Forest Practices Habitat Conservation Plan
FREP	Forestry Riparian Easement Program
FFR	Forests and Fish Report
HCP	Habitat Conservation Plan
IDT	Interdisciplinary Team
RMAP	Road Maintenance and Abandonment Plan
ROSP	Riparian Open Space Program
RP&S	Resource Protection and Services
SRC	Scientific Review Committee
TFW	Timber/Fish /Wildlife

Regulations, Acts and Permits

CWA	Clean Water Act
EIS	Environmental Impact Statement
ESA	Endangered Species Act
ITP	Incidental Take Permit
RCW	Revised Code of Washington
SEPA	State Environmental Policy Act
WAC	Washington Administrative Code

19. Appendix



Appendix #1

Monthly Summary of Clean Water Act Projects – July 2012						
Project # /Name	Project Lead	Project Description	Percent (%) Complete	Completed on Time	Original Due Date	Comments
1 - Revised CMER Work Plan	Hotvedt	By July 2009, and in subsequent budget and planning years, the AMP Administrator with the assistance from the Policy and CMER committees will send to the Forest Practices Board a revised CMER work plan and budget that places key water quality studies as high priorities as described in section II(c) regarding the adaptive management program.	100% - for current FY	Yes	July 09	This is an annual task that has been completed successfully twice and signed off on by Ecology through 2010. (See DOE letter dated 10/4/10).
2 – Table 1 Projects	Hotvedt	By July 2009, and in subsequent planning years, the projects identified by Ecology in Table 1 will be reflected in the CMER budget and work plan in a manner that establishes a priority schedule for study development. Failure to meet any of the milestones identified without prior consent by Ecology may be viewed as a basis to revoke the CWA assurances at that point in time.	100%- for current FY	Yes	July 09	This is annual task that has been completed successfully twice and signed off on by Ecology through 2010. (See DOE letter dated 10/4/10).

Project # /Name	Project Lead	Project Description	Percent (%) Complete	Completed on Time	Original Due Date	Comments
3 – AMP Funding Strategy	Hotvedt	The Forest and Fish Policy Budget Committee will identify a strategy that will be implemented with caucus principal support to secure stable, adequate, long-term funding for the AMP.	100%	Yes	September 09	Project is complete. The Forests and Fish Policy Committee developed the strategy they would use to seek out sufficient long term stable funding for the Adaptive Management Program. That strategy, while thus far unsuccessful in finding long term funds, satisfies milestone number 3 according to Ecology. (See DOE letter dated 10/4/10).
4 - Compliance Monitoring Stakeholder Charter	Obermeyer	DNR will complete the Charter for the Compliance Monitoring Stakeholder Guidance Committee and determine which issues identified herein related to compliance monitoring will be dealt with by the committee. This is intended to help move these issues forward on schedule as well as to flag the items for which an alternative process for resolution is needed.	100%	Yes	October 09	Project is complete. Ecology provided final project sign-off on 12/10/09 (see email).

Project # /Name	Project Lead	Project Description	Percent (%) Complete	Completed on Time	Original Due Date	Comments
5 - Protocols and Standards Training	Hotvedt	The AMP program administrator, with the assistance of CMER and Policy, will complete the ongoing training sessions on the AMP protocols and standards for CMER, and Policy. This is intended to remind participants of the agreed upon protocols. Opportunity should also be provided to identify portions of the protocols and associated rules that need revision to improve performance or clarity. Any identified improvements to the Board Manual or regulations should be implemented at the soonest practical time. Subsequent to this effort, the administrator will offer to provide this training to the Board.	75%	No	December 09	<p>Five new members were appointed to the Forest Practices Board at the beginning of 2012 and all five were given training on the Adaptive Management Program after their first Forest Practices Board meeting on February 14. New members have been and will continue to be trained as they are appointed to the Board.</p> <p>Efforts to identify portions of the protocols and associated rules that need revision to improve performance and clarity have been undertaken by the AMPA and Policy and CMER co-chairs. Policy and CMER co-chairs and the AMPA have itemized and prioritized issues resulting from AMP training and from the Stillwater Report. CMER is currently revising its Protocols and Standards Manual, taking into consideration comments and recommendations from the Stillman Report and others.</p>

Project # /Name	Project Lead	Project Description	Percent (%) Complete	Completed on Time	Original Due Date	Comments
6 - CMER Project Flagging Process	Hotvedt	The AMP Manager with the assistance of the co-chairs of Policy and CMER will initiate a process for flagging projects for the attention of Policy that are having trouble with their design or implementation. This process should identify projects not proceeding on a schedule reflecting a realistic but expedient pace (i.e., a normal amount of time to complete scoping, study design, site selection, etc.).	100%	No	December 09	<p>Project is completed. A briefing on the product was provided to CMER at the August 24, 2010. The milestone was completed with a briefing to Forests and Fish Policy at their October 2010 monthly meeting.</p> <p>The process was accepted by Mark Hicks, Department of Ecology on Nov. 3, 2010.</p>
7 - Rule Element Sampling	Obermeyer	DNR in partnership with Ecology and with the aid of the CMP stakeholder guidance committee will develop general plans and timelines for exploring options and data collection methods for assessing compliance with rule elements such as water typing, shade, wetlands, haul roads and channel migration zones. The goal is to initiate these programs by December 2011.	100%	No	December 09	Project is completed. Final plan delivered to Ecology on March 31, 2010. Ecology sent an e-mail accepting the plan on March 31, 2010.

Project # /Name	Project Lead	Project Description	Percent (%) Complete	Completed on Time	Original Due Date	Comments
8 - Field Dispute Resolution	Obermeyer	DNR with assistance of Ecology and WDFW, will evaluate the existing process for resolving field disputes and identify improvements that can be made within existing statutory authorities and review times. Although resolution of the specific issue at hand should be a goal, the overarching purpose of this milestone is to establish a process that will identify the basis for the dispute and to put in place revised guidance, training, reporting pathways, other measures that will minimize the reoccurrence of similar disputes in the future. This process should consider how to best involve the appropriate mix of both policy and technical participants to thoroughly resolve the issue at hand.	100%	No	January 10	Project complete. Final document sent to Mark Hicks at Ecology. Mark Hicks approved the completion of the milestone. See email dated 11/3/10.
9 - Stakeholder RMAP Participation	Mahan	As part of the RMAP annual meeting process, DNR should ensure opportunities are being provided in all the regions to obtain input from Ecology, WDFW, and tribes formally participating in the forest and fish process regarding road work priorities.	100%	No	January 10	Project completed on 8/9/11 when the forest practices board agreed to process changes and board manual changes in the RMAP process. Mark Hicks signed off on completion on 9/2/11.

Project # /Name	Project Lead	Project Description	Percent (%) Complete	Completed on Time	Original Due Date	Comments
10 - Water Type Modification Review Process	Tasker	DNR in consultation with WDFW, Ecology, and the tribes will develop a prioritization strategy for water type modification. The intent of this strategy will be to manage the number of change requests sent to cooperating agencies for 30-days review so it is within the capacity of those cooperators to respond to effectively. The strategy should consider standardizing the current ad hoc process of holding monthly coordination meetings with agency and tribal staff in all the DNR regions. This should allow group knowledge and resources to be more efficiently used to evaluate change requests.	100%	Yes	February 10	Project is complete. The Regions have been conducting their WTR Team meetings and implementing the process. See Hicks email dated 11/24/10 for final DOE approval.
11 - Water Typing On-Line Guidance	Mahan	DNR Forest Practices will establish online guidance that clarifies existing policies and procedures pertaining to water typing. The intention is to ensure regional staff and cooperators remain fully aware of the most current requirements and review processes for changing water type and coordinating the review of multidisciplinary teams.	95%	No	May 10	FPD will post the guidance on the website. Projected date - Summer 2012.

Project # /Name	Project Lead	Project Description	Percent (%) Complete	Completed on Time	Original Due Date	Comments
12 - Certification Framework	Mahan	DNR with consultation with Ecology and WDFW (or with the CMP stakeholder guidance committee), will establish a framework for certification and refresher courses for all participants responsible for regulatory or CMP assessments. This will be focused on aiding in the application of rules regarding bankfull width, CMZ boundaries, application of road rules, and wetlands. Consideration should be given to including a curriculum of refresher courses on assessing difficult situations.	30%	No	June 10	DNR Executive Management is reviewing the position request. DNR plans on hiring the training position by March 2012. Intent is to have training program manager develop course curriculum with input from DNR Region staff, WDFW, Ecology and other interested parties.
13a, b, c - Individual Landowner Tracking	Casey	By June 2010, DNR, Ecology, ad WDFW will meet to review existing procedures and recommend improvement needed to more effectively track compliance at the individual landowner level. The goal will be to ensure the compliance pattern of individual landowners can be effectively examined. This should consider the types and qualities of enforcement actions that occur (e.g., conference notes, notices of correction, stop work orders, penalties.)	13a - 100% 13b - 100% 13c - 100%	Yes Yes Yes	Jun-2010 Oct-2010 May-2012	The project was broken into three separate milestones with individual due dates: 13a - By June 2010: This project is completed - the group evaluated the current data base that is used to track compliance and determined that it is acceptable. See DOE acceptance in 11/3/10 email. 13b - By October 2010: This project is completed. DNR, Ecology, and WDFW conducted an initial assessment of trends in compliance and enforcement actions taken at the individual landowner level. The process to review compliance and enforcement trends for individual landowners was established and

Project # /Name	Project Lead	Project Description	Percent (%) Complete	Completed on Time	Original Due Date	Comments
						<p>accepted by Mark Hicks, Department of Ecology on Nov. 3, 2010.</p> <p>13c - By May 2012: This project is completed and accepted by Mark Hicks, Department of Ecology via email on June 8, 2012. Ecology accepted a spreadsheet that "documents an effective format for tracking and communicating patterns of compliance at the individual landowner level. Maintaining compliance data in this straightforward format will readily allow the information to be examined at both annual and longer time scales."</p>

Project # /Name	Project Lead	Project Description	Percent (%) Complete	Completed on Time	Original Due Date	Comments
14 - Riparian Non-Compliance	Obermeyer/Jackson	DNR with the assistance of Ecology, will assess the primary issues associated with riparian noncompliance (using the CMP data) and formulate a program of training, guidance, and enforcement believed capable of substantially increasing the compliance rate - with a goal of getting greater than ninety percent compliance by 2013. Ecology will consider the rating of noncompliance since not all infractions have the same effect on public resources (e.g., is it predominately at levels within reasonable field method limits or likely to occur even with due diligence) when determining if this compliance target rate milestone has been satisfied.	97%	No	Jul-10	Final draft sent to Ecology for review.
15 - SFL Road Risk Evaluation Strategy	Hicks/Engel	Ecology, in partnership with DNR, and in consultation with the SFL advisory committee, will develop a plan for evaluating the risk posed by SFL roads for the delivery of sediment to waters of the state.	10%	No	Jul-10	DNR's Small Forest Landowner Office has submitted a grant proposal to the Northwest Fish and Wildlife Foundation to aid in achieving this milestone.

Project # /Name	Project Lead	Project Description	Percent (%) Complete	Completed on Time	Original Due Date	Comments
16 - Type N Rules Evaluation Strategy	Engel	Policy, in consultation with CMER, will develop a strategy to examine the effectiveness of the Type N rules in protecting water quality at the soonest possible time. This strategy needs to include at a minimum: 1. Ranking and funding of the Type N studies as highest priorities for CMER research. 2. By July 2012, developing a protocol for identifying with reasonable accuracy the uppermost point of perennial flow, or develop documentation demonstrating the spatial and temporal accuracy of the existing practice used to identify this point. 3. By Sept. 2012, completing a comprehensive literature review examining the effects of buffers on streams physically similar to the Type Np waters in the forest practices rules prior to completion of the Type N basalt effectiveness study. This should be conducted or overseen by CMER (or conducted by an independent research entity).	25%	No	Jul-10	In Fall 2011, Forest and Fish Policy developed a chartered process that serves as a strategy to complete this milestone. That process is now being implemented through the simultaneous efforts of both technical and policy subgroups. Completion can be reasonably expected by September 2012, which would substantially meet this milestone.

Project # /Name	Project Lead	Project Description	Percent (%) Complete	Completed on Time	Original Due Date	Comments
17 - Alternate Plan Evaluation	Anderson/ Engel/ Miketa	DNR, in partnership with Ecology, and in consultation with WDFW, the Tribes, and the SFL advisory committee, will design a sampling plan to gather baseline information sufficient to reasonably assess the success of the alternate plan process. This sampling plan should include how to select sample sites, how to best document the content and assumptions contained in the alternate plan, what to monitor and how frequently to do so, and responsibilities for who will conduct the sampling. The goal of this effort is to initiate data collection in the 2011 field season.	95%		Oct-10	Two trial alternate plans were identified, one in Northeast region and the other in Pacific Cascade region. Northeast region trial is now finished, including shade plot photos. Pacific Cascade region trial was approved with Forest Practices Forester Andy Aschenbrenner supplying all the paperwork less the completed after-action review. This will occur upon completion of tree planting next year. While invited, Ecology (Olympia) did not participate in the process in NE region. The after-action review was completed in April 2012.
18-Independent AMP Review	Hotvedt	The AMP Program administrator shall initiate the process of obtaining an independent review of the AMP. This review shall be done by representatives of an independent, third party research organization.	20%	No	Dec-10	A LEAN event was completed in May 2012 that recommended a streamlined approach to developing CMER study designs. The approach would continue to require CMER approval of final study designs, but excluded multiple intermediate decision points associated with the current review and approval processes. The recommended process will be tested using a pilot on a CMER project, yet to be determined.

Project # /Name	Project Lead	Project Description	Percent (%) Complete	Completed on Time	Original Due Date	Comments
19 - Water Type Modification Strategy Review	Mahan	DNR in consultation with WDFW, Ecology, and the Tribes will complete an evaluation of the relative success of the water type change review strategy. Results of this review would be used to further refine the strategy.	95%	Yes	Dec-11	"Request to move the due date for the project was granted by Ecology (see 11/24/10 email). The due date was changed from 2/2011 to 12/2011. Dec. 2011 - Project lead finished collecting comments for the Working Group regarding how the procedure is working. Mark Hicks stated the implementation issues needed to be addressed prior to completion. DNR will hold a final meeting with the working group to discuss resolutions to implementation issues. Tasker passed duties on to Jed Herman. Upon completion of this meeting Mark Hicks stated he would be willing to accept this milestone as complete (see email 12).
20 -RMAP Summary	Potter	DNR with the assistance of large landowners, will provide summary information for all industrial landowners having RMAPs. The summary information will include at a minimum: Date RMAP completed, total miles of road covered under the RMAP, total miles describing the strategy for bringing all roads into compliance by 2016 that demonstrates evenflow or otherwise provides confidence that compliance will be	100%			Project complete on 8/9/11. The Forest Practices Board agreed to process changes, and Board Manual changes that completed this Milestone. Mark Hicks signed off as complete on 9/2/11.

Project # /Name	Project Lead	Project Description	Percent (%) Complete	Completed on Time	Original Due Date	Comments
		attained by 2016. If reasonable and feasible, the summary will show the annual progress on road and barrier improvement that has occurred since the inception of the RMAP, and DNR will provide a master summary for all industrial landowners combined.				
21-SFL Roads Report	Hicks/ Engel/ Mahan	Ecology in partnership with DNR, and in consultation with the SFL advisory committee will prepare a summary report that assesses the progress of SFLs in bringing their roads into compliance with road best management practices, and any general risk to water quality posed by relying on the checklist RMAP process for SFLs. If a significant portion of SFL roads are estimated to pose a risk of damage to public resources, then a report will be prepared in time to brief the Legislature in December 2013.	0%		13-Nov	This report is due to the legislature in 2013. A plan on how to obtain the data needs to be agreed upon, funding to execute the plan obtained and the report written so that it can be submitted in 2013 to the legislature.
22-Unstable Slopes Rules Compliance	Mahan	Initiate a program to assess compliance with the unstable slopes rules.	10%		2012	This new "forest practices program" milestone was transferred to the program milestone list in July 2011. It was originally listed by Ecology under CMER milestones. Initial discussion with Ecology scheduled for 10/24/2011. 1/2012 Working with Leslie Lingley on Post-Mortem partially buffered areas to verify unstable slope with FPA. Expect to have more information 2/2012.

Appendix #2

INFORMATION

dnr.wa.gov/sflo

FAMILY FOREST FISH PASSAGE
Program Partners

PROGRAM OUTREACH
Department of Natural Resources
Small Forest Landowner Office
Mail Stop 47012
Olympia, WA 98504-7012
Phone: 360-902-1404
Fax: (360) 902-1428
Email: sflo@dnr.wa.gov
www.dnr.wa.gov/sflo

PROJECT EVALUATION
AND RANKING
Department of Fish and Wildlife
Habitat Management Program
www.wdfw.wa.gov

PROGRAM FUNDING
Recreation and Conservation Office
www.rco.wa.gov

LANDOWNER ORGANIZATION
Washington Farm
Forestry Association
www.wafarmforestry.com

Apply online today

surveymonkey.com/fffpp

* The three agencies above are responsible for implementing the program. The Washington Farm Forestry Association joins the agencies on a steering committee.

PRINTED ON RECYCLED PAPER

FISH BARRIER



BEFORE



AFTER



Family Forest Fish Passage Program

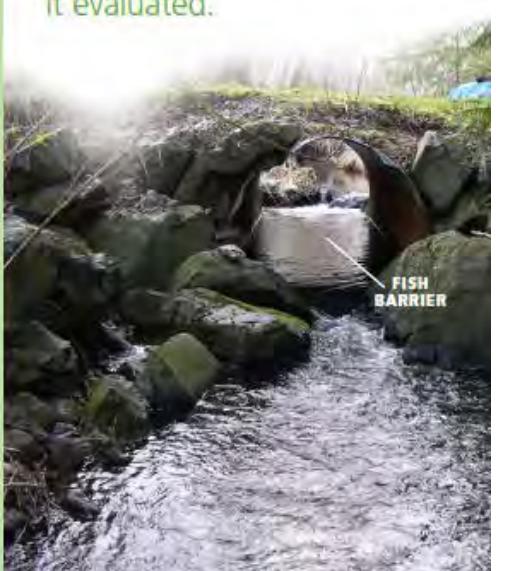
A Funding Program for Small Forest Landowners to Improve Fish Passage

DO YOU HAVE ROADS WITH STREAM CROSSINGS ON YOUR FORESTLAND?

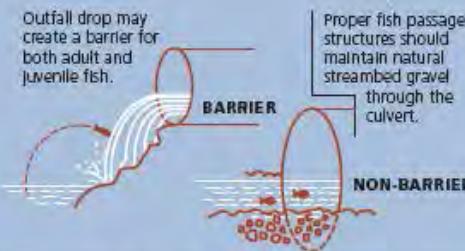
Many miles of stream are inaccessible to fish because of barrier culverts. Our goal is to help restore declining salmon and trout populations by replacing barriers with new structures that allow fish to migrate upstream.

By signing up for the Family Forest Fish Passage Program, a landowner is relieved of any Forest Practices obligation to fix a fish barrier.

Not sure if your culvert is a barrier to fish? Apply to the program to have it evaluated.

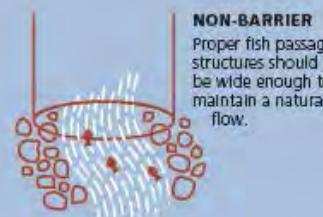


 What makes a culvert a fish barrier?



BARRIER

Underdesigned culverts create high water velocity and can be a barrier to fish, especially juvenile fish.



NON-BARRIER

Proper fish passage structures should be wide enough to maintain a natural flow.



Who's eligible for funding?

You qualify for the program if:

You are a private, small forest landowner.

You harvest less than 2 million board feet of timber each year from lands you own in Washington.

and

The culvert is on forestland and associated with a road.

The land is capable of supporting a merchantable stand of timber and is not being used for anything incompatible with growing timber.

and

The culvert is on a fish-bearing stream.



Any stream wider than 2 feet in Western Washington (*3 feet in Eastern Washington) with a gradient less than 20 percent is considered potential fish habitat. Smaller or steeper streams may also be fish-bearing; this will be determined by a site evaluation.

How does the program work?

- 1 Landowner applies for evaluation



 surveymonkey.com/fffpp

You can also contact us by phone or email:
360-902-1404
sflo@dnr.wa.gov

- 2 Culvert is evaluated and prioritized

A field technician will contact you to make a site visit to assess the culvert.

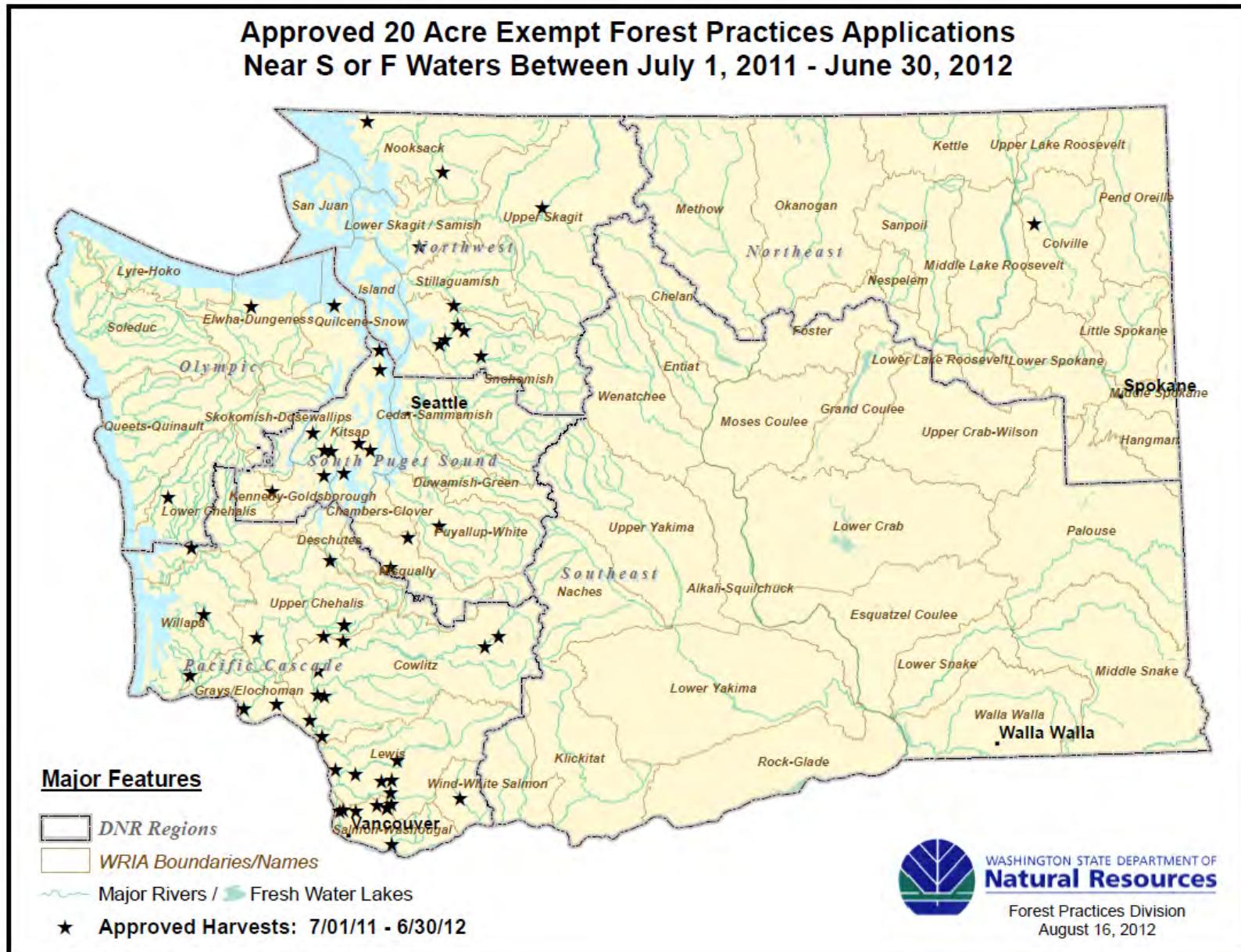
- 3 Project is funded when it is a high priority

The barriers presenting the highest benefit to fish habitat are fixed first.

- 4 Project sponsor manages the project

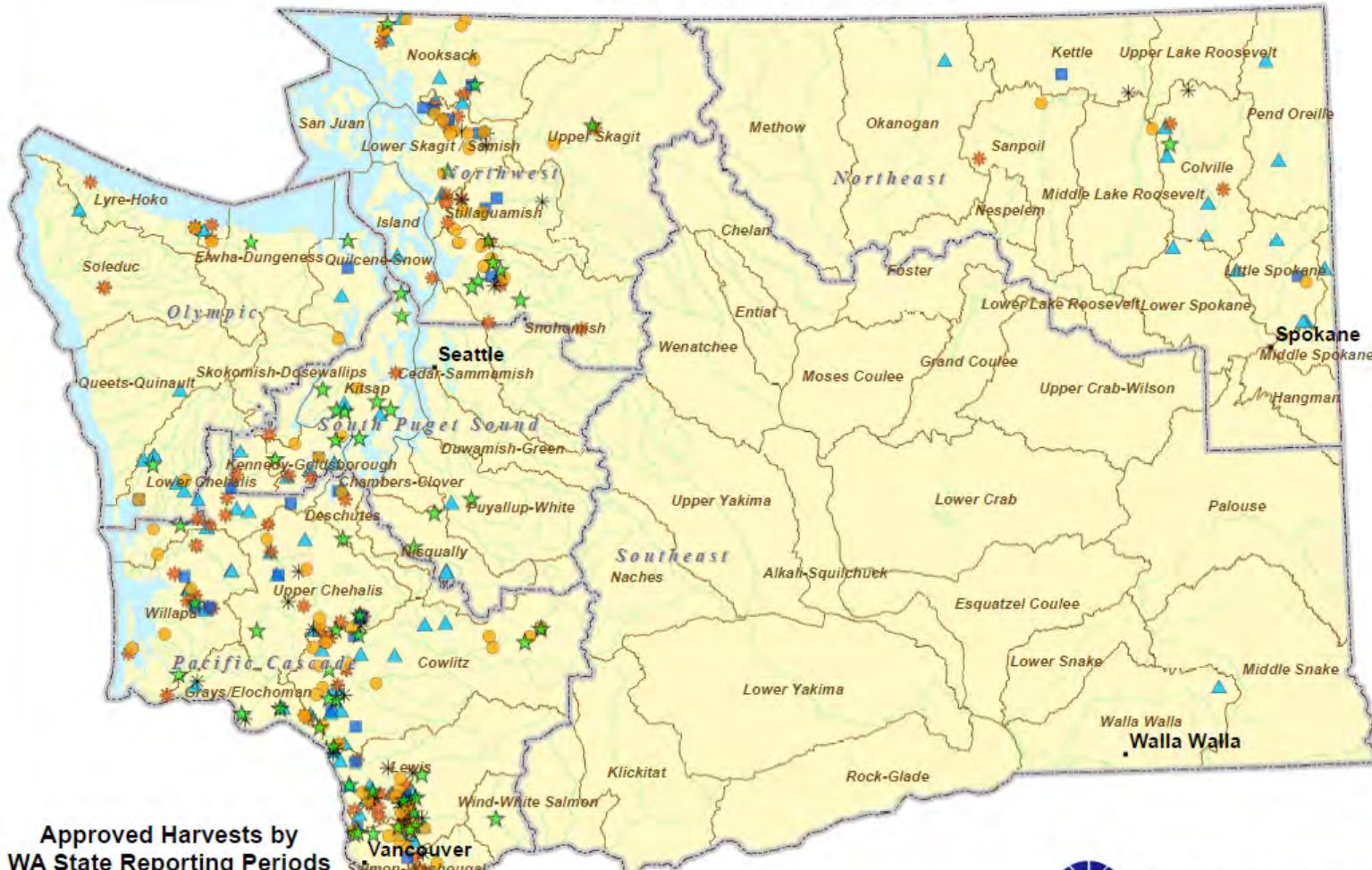
The program provides a project sponsor who will manage all aspects of a project, including engineering, permits, contractors and accounts.

Appendix #3a



Appendix #3b

**Approved 20 Acre Exempt Forest Practices Harvest Applications Near S or F Waters
From June 5, 2006 to June 30, 2012**



Approved Harvests by WA State Reporting Periods

- ★ 7/01/11 - 6/30/12 ■ 7/01/08 - 6/30/09
● 7/01/10 - 6/30/11 ✽ 7/01/07 - 6/30/08
* 7/01/09 - 6/30/10 ▲ 6/05/06 - 6/30/07



**WASHINGTON STATE DEPARTMENT OF
Natural Resources**

Appendix #4

WAC 222-20-120 Notice of forest practices that may contain cultural resources to affected Indian tribes. [Effective 3/18/2012]

- (1) The department shall notify affected Indian tribes of all applications in geographic areas of interest that have been identified by such tribes, including those areas that may contain cultural resources.
- (2) Where an application is within a tribe's geographic area of interest and contains cultural resources the landowner, at the tribe's discretion, shall meet with the affected tribe(s) prior to the application decision due date with the objective of agreeing on a plan for protecting the archaeological or cultural value.
- (3) The department will consider the requirements in subsection (2) complete if prior to the application decision due date:
 - (a) The landowner meets with the tribe(s) and notifies the department that a meeting took place and whether or not there is agreement on a plan. The department shall confirm the landowner's information with the tribe(s); or
 - (b) The department receives written notice from the tribe(s) that the tribe(s) is declining a meeting with the landowner; or
 - (c) The tribe(s) does not respond to the landowner's attempts to meet and the landowner provides to the department:
 - (i) written documentation of telephone or e-mail attempts to meet with the tribe's designated cultural resources contact for forest practices, and
 - (ii) a copy of a certified letter with a signed return receipt addressed to the tribe's cultural resources contact for forest practices requesting a meeting with the tribe; or
 - (d) The department receives other acceptable documentation.
- (4) The department may condition the application in accordance with the plan.

Appendix #5



PETER GOLDMARK
Washington State Commissioner of Public Lands

December 16, 2011

Addressed to Tribal Chair

Subject: Tribal Review of Forest Practices Rule Makings and Forest Practices Applications/Notifications

Dear Chairman

The Department of Natural Resources (DNR) provides staff to the Forest Practices Board (Board) to complete forest practices rule makings. During the rule making process there are two opportunities for tribes to make comment. The first occurs when the Board directs staff to send proposed rule language to the Department of Fish and Wildlife and counties for a 30-day review pursuant to the Forest Practices Act (RCW 76.09.040). By a long standing practice, we have included the tribes in this review process. The second opportunity for comment occurs when the Board initiates rule making pursuant to the Administrative Procedures Act (chapter 34.05 RCW).

The tribal contact list for the 30-day review is kept within the Forest Practices Division and it is essential that this list is up to date at all times. The current list of reviewers for your tribe is attached for your review. Please contact Patricia Anderson at 360.902.1413 or patricia.anderson@dnr.wa.gov to place staff on or update your tribal staff list of those who will receive draft rule proposals to review and potentially provide comments prior to the initiation of rule making by the Board.

When the Board initiates rule making, tribes again have the opportunity to comment through testimony at rule making hearings and/or written comment to the Board. I encourage tribes wanting to receive notification of Board rule makings, to register the email addresses of all participating tribal staff through the Forest Practices rule making webpage at:

http://www.dnr.wa.gov/BusinessPermits/Topics/ForestPracticesRules/Pages/fp_rules_activity.aspx. On the webpage, click on "E-Subscribe" under "Related Links" and select the subjects of interest, including rule makings, for notification. DNR purchases the service of "E-Subscribe" through GovDelivery who maintains the e-subscription lists. This means that each tribe must monitor and maintain those staff subscribed to this service. Individual e-mail addresses will be used only to register for e-mail notifications and to allow access to each person's account. A subscription can be changed or cancelled at any time, either by selecting the cancellation link in any notification email or by updating a user profile.

The Board has initiated rule making to amend WAC 222-20-120 "*Notice of Forest Practices Applications to Affected Indian Tribes*". At present, this rule making is in the public review phase and is open for written comment until January 6, 2012. Rule making hearings will be held starting at 6:00 p.m. on January 3, 2012 in Olympia in Room 172 of the Natural Resources Building, located at 1111 Washington Street S.E.; and January 5, 2012 in Ellensburg at the Department of Natural Resources

Tribal Chair
December 16, 2011
Page 2

Southeast Region office located at 713 E. Bowers Road. Additional information about the Notice to Tribes rule making can be found at:

http://www.dnr.wa.gov/BusinessPermits/Topics/ForestPracticesRules/Pages/fp_rules_activity.aspx

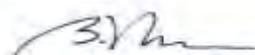
The proposed amendments in the "*Notice of Forest Practices Applications to Affected Indian Tribes*" rule making are the result of recommendations from the Timber/Fish/Wildlife Cultural Resources Roundtable (Roundtable) to resolve issues with the landowner-tribe meeting for applications involving cultural resources. The amendments clarify that a landowner- tribe meeting is to be held "at the tribe's discretion" when a forest practices application (FPA) having cultural resource(s) within the proposed forest practices activities boundary are located in the "tribe's geographic area of cultural interest".

To assure the success of this rule making, each tribe must have the opportunity to review FPAs that correspond to the tribe's cultural resources interests. This is accomplished through tribal staff notification of FPAs through the Forest Practices Application Review System (FPARS). If your tribe has not already done so, please consider creating an FPARS Reviewer Profile for essential staff members to review proposed FPAs within your tribe's cultural resources geographic areas of interest. When created, the profile identifies your tribe's cultural resources contact(s) and the geographic area of interest in which your tribe would most likely want a landowner – tribe meeting for those FPAs containing cultural resources. Your tribe's current Reviewer Profile(s), enclosed for your convenience, identifies your tribal staff that have enrolled in FPARS and their choice of the types of pending FPAs to receive notification. If you have not already done so, please confirm which profile(s) is your cultural resources profile.

For your convenience, a blank FPARS Reviewer Profile is enclosed. Profiles are available on DNR's website at http://www.dnr.wa.gov/Publications/fp_form_fpars_revprofile.pdf.

Thank you for your time and consideration. Should you have questions or concerns about the review process for applications involving cultural resources, please contact Darin Cramer, Forest Practices Division Manager, at darin.cramer@dnr.wa.gov or 360-902-1088.

Sincerely,



Bridget Moran
Deputy Supervisor for Aquatics and Environmental Protection

Enclosures (3)

cc: Lenny Young, Department Supervisor
Rodney Cawston, Tribal Relations Manager
Darin Cramer, Forest Practices Division Manager
Forest Practices Board
Jeffrey Thomas, co-chair, TFW Cultural Resources Roundtable
Peter Heide, co-chair, TFW Cultural Resources Roundtable

1111 WASHINGTON ST SE • PO BOX 47000 • OLYMPIA, WA 98504-7000
FAX: (360) 902-1775 • TTY: (360) 902-1125 • TEL: (360) 902-1000
Equal Opportunity Employer / Affirmative Action Employer

Appendix #6

Settlement Agreement Conservation Caucus, State of Washington, and Washington Forest Protection Association

I. Recitals

1.1 By letter dated December 21, 2011, the Conservation Caucus (CC)¹ notified the State of Washington (the Governor, the Commissioner of Public Lands, and the Director of the Department of Ecology) (collectively the State), the Regional Administrator for NOAA Fisheries, the Manager of the local U.S. Fish and Wildlife Service (USFWS) (collectively the Services), and the Region 10 Administrator of the U.S. Environmental Protection Agency (EPA) that the CC maintains several legal concerns with the Forest Practices Habitat Conservation Plan (FPHCP), and the associated Incidental Take Permits (ITPs), Implementing Agreement, and Biological Opinions (collectively the FPHCP). The CC also identified concerns with the Clean Water Act assurances provided to the state forest practices program. The CC's December 21, 2011, letter notified the State and Services that the CC would take legal action challenging these federal approvals before the expiration of the statute of limitations if improvements were not made. The statute of limitations will lapse on May 26, 2012, for the USFWS ITP and June 5, 2012, for the NOAA Fisheries ITP.

1.2 The State denies the CC's allegations, but views the CC's December 21, 2011, letter as an opportunity to improve the FPHCP's adaptive management processes and provide clarity to the funding provisions of the Implementing Agreement.

1.3 The Washington Forest Protection Association (WFPA) is an association of Washington forest landowners whose members have a strong interest in and commitment to the success of the FPHCP. WFPA denies the allegations in the CC's December 21, 2012 letter. WFPA also believes an opportunity exists to improve the FPHCP's adaptive management processes and provide clarity to the funding provisions of the FPHCP Implementing Agreement to obtain long-term regulatory certainty for the timber industry.

1.4 The CC, WFPA, and the State recognize that the CC's threatened legal challenge raises a risk that a failure of assurances under RCW 77.85.190 may occur. The CC, WFPA, and the State all agree that they want to avoid such a failure, and that preservation of the FPHCP is important to them.

1.5 The CC, WFPA, and the State recognize a successful resolution is more likely with the active participation and support of Washington's federally recognized Indian Tribes (Tribes) as well as the forest stakeholders. The State has a strong commitment to and interest in a respectful government-to-government relationship with the Tribes and will collaborate with interested Tribes in a manner consistent with this commitment.

¹ The CC consists of the Washington Environmental Council, Conservation Northwest, Wild Fish Conservancy, Sierra Club, Olympic Forest Coalition, and the Pacific Rivers Council, and is represented by the Washington Forest Law Center.

1.6 The CC, WFPA, and the State (collectively the Parties) have agreed upon a set of recommended improvements to the existing Implementing Agreement and adaptive management process. These improvements are set forth in this Agreement.

1.7 The State agrees to propose to the Services the clarification of the Implementing Agreement that was developed by the Parties as set forth in Section III of this Agreement immediately upon the execution of this Agreement.

NOW THEREFORE, in consideration of the mutual promises and commitments contained herein, the Parties enter into this Agreement as follows.

II. Conservation Caucus Commitments.

2.1 In consideration of the State and WFPA's commitments contained in this agreement, the CC covenants it will not file any action in any manner, or support any party participating in such challenge, challenging the Services' 2006 decisions granting the State's Incidental Take Permits for the FPHCP. This waiver includes claims that the Services Biological Opinions were not sufficient to support the ITP issuance decisions.

2.2 The CC will not for 3.5 years from the date of execution of this Agreement file any action under the Clean Water Act against the Department of Ecology or EPA or support any party participating in such challenge alleging that the Washington State forest practices rules do not meet federal Clean Water Act requirements or state water quality standards. For an additional six (6) months after this 3.5 year period lapses, the CC will not file any CWA action under this section if the CC believes that progress has been made by the adaptive management program relating to the Clean Water Act studies and their implementation.

2.3 The CC will not for 3.5 years from the date of execution of this Agreement file any action against the Services seeking re-initiation of consultation under Section 7 of the implementation of Endangered Species Act (ESA) regarding the FPHCP or any other citizen suit under the ESA regarding the FPHCP or support any party participating in such challenge. If the clarifications to the FPHCP Implementing Agreement in section III are adopted, this commitment does not apply to any action related to those clarifications initiated after the process identified in Implementing Agreement Section 7.1 is completed. For an additional six (6) months after this 3.5 year period lapses, the CC will not file any ESA action under this section if the CC believes that progress has been made by the adaptive management program relating to studies and their implementation.

2.4 If the adaptive management proposals identified in Attachments 2 and 3 do not result in a change consistent with the commitments in Section IV approved by Forest and Fish Policy and the Forest Practices Board by December 31, 2013, then the CC commitments in paragraphs 2.2 and 2.3 above are withdrawn.

2.5 In the event the CC files an action as described in sections 2.2 or 2.3 of this Agreement, then WFPA may decline to jointly advocate under sections 4.10 and 4.11 of this Agreement, or discuss its legislative goals and objectives under section 4.13 of this Agreement.

III. Clarifications to FPHCP Implementing Agreement

3.1 The State agrees to request from the Services the clarifications to the FPHCP Implementing Agreement set out in Attachment 1 using the process for a minor modification outlined in the Implementing Agreement paragraph 11.1 once this Agreement is signed.

3.2 The State agrees to request that if the Services approve these clarifications to the Implementing Agreement, the changes become effective May 25, 2012.

3.3 If the CC does not receive a confirmation from the Services that the Services will approve the proposed Implementing Agreement minor modification by May 30, 2012, this Agreement shall become null and void.

IV. Joint Adaptive Management Proposals.

4.1 The Parties have collaboratively agreed to numerous process related improvements to the FPHCP's adaptive management program. It will, however, take time for Forest and Fish Policy to consider and recommend improvements to the Forest Practices Board for review and approval.

4.2 Attachment 2 identifies the Adaptive Management Proposal for Improvements to the Program's Process for Making Decisions. This Attachment 2 is incorporated into this Agreement by reference.

4.3 Attachment 3 identifies the Adaptive Management Proposal for a Master Schedule of Cooperative Monitoring, Evaluation & Research Committee (CMER) work. This Schedule is based, in large part, on CMER's current work plan, as approved by Policy and the Forest Practices Board. This schedule will change over time as projects are completed and/or re-prioritized. This Attachment 3 is incorporated into this Agreement by reference.

4.4 The State, CC, and WFPA agree to initiate the joint adaptive management proposals in Attachment 2 and 3 with the Forest and Fish Policy Committee as soon as possible, but no later than the August, 2012 Forest and Fish Policy Meeting.

4.5 If another Caucus opposes these proposals, the CC, State, and WFPA will work collaboratively within the adaptive management program to present the case for these proposals to the dissenting Caucus. This includes using the dispute resolution process.

4.6 The State, CC, and WFPA agree to advocate for proposals contained in this Agreement (including the Master Schedule) in the adaptive management process and before the Forest Practices Board. The Parties understand the adaptive management process must be used for the proposals to be recommended to the Forest Practices Board, and that these proposals could be modified by that process.

4.7 The Parties will work to ensure that Policy will expeditiously implement the prioritized work plan as recommended annually by Policy and adopted by the Forest Practices Board.

4.8 The State, CC, and WFPA agree that if the proposal in Attachment 3 results in a Forest Practice Board's requirement to review and approve the CMER Master Schedule, or a Board determination about compliance with the Schedule, then the Forest Practices Board failure to act as required, as well as the Board's approval of the schedule or determination about compliance with the Schedule, would be reviewable under RCW 34.05.570(4).

4.9 The State, CC, and WFPA agree, to the extent permitted by applicable law, to seek legislative funding levels to ensure the Washington State Department of Natural Resources (DNR) is allocated no less than a minimum forest practices regulatory program biennial budget of \$22.7 million, which is necessary to support the FPHCP, including working together to develop a legislative proposal for a dedicated source of funds.

4.10 The Parties will advocate before the Legislature for continued funding at historic levels for the Forest and Fish Support Account participation grants (including non-profit organizations).

4.11 WFPA and CC will make advocacy to achieve enhanced funding for the DNR forest practices regulatory program a high priority in its annual government advocacy program.

4.12 The Parties acknowledge additional resources are necessary for DNR to more effectively administer the forest practice regulatory program. To the extent permitted by applicable law, the Parties shall work collaboratively to develop a legislative advocacy strategy that obtains additional funds that will strengthen implementation of the forest practices regulatory program.

4.13 The Parties will meet within ninety (90) days from the commence of each regular legislative session to discuss their respective legislative goals and priorities relating to matters covered by this Agreement, and will attempt to reach consensus on these goals and priorities. During this meeting, the Parties will discuss, among other things, a joint strategy for achieving the funding goals and objectives contemplated in this Agreement.

V. Additional Terms and Conditions

5.1 Final Agreement. This Agreement embodies the final and entire understanding of the Parties pertaining to this subject matter and supersedes all prior agreements and understandings, except that all confidentiality agreements related to this dispute are unchanged by this Agreement.

5.2 Severability. If any term or provision in this Agreement is determined to be illegal or unenforceable, all other terms and provisions in this Agreement shall remain effective and shall be enforced to the full extent permitted by law.

5.3 Jointly Drafted. The Parties agree that this Agreement was jointly drafted, that the Agreement shall not be deemed prepared or drafted by any one Party, and no inference or rule of construction shall be applied based on the assumption that any individual Party or subset of the Parties drafted any provision in this Agreement.

5.4 Modification. This Agreement may not be modified, altered, or amended, except pursuant to an instrument in writing signed by all Parties.

5.5 Good Faith. All Parties shall exercise their good faith and diligence in cooperating to carry out the provisions of this Agreement.

5.6 Jurisdiction for Disputes. This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington, and the venue of any action brought under this Agreement shall be in Superior Court for Thurston County.

5.7 Settlement Represents Agreement of the Parties – No Admissions Re Merit of Claims. This Agreement is the product of compromise of disputed claims, and it is not to be construed as an admission regarding the correctness of any claims asserted by the CC, WFPA, or the State.

5.8 Media Statements. The Parties agree to cooperate in the preparation of any press releases or statements to the media regarding this Agreement.

5.9 Public Disclosure. The Parties acknowledge that this Agreement, once finalized, is subject to public disclosure under the Public Records Act.

5.10 Informal Dispute Resolution. Prior to seeking judicial review of any dispute under this Agreement, the Parties will first attempt to resolve any dispute under this Agreement through informal dispute resolution procedures. The Party claiming a dispute shall provide notice to the other parties of any claimed dispute. Thereafter, the Parties will meet within thirty (30) days from receipt of the notice to discuss a process and procedures for resolving the dispute. Thereafter, the Parties will meet within fifteen (15) days after the initial meeting to engage in dispute resolution. At the conclusion of this dispute resolution meeting, any Party may elect to pursue any judicial remedy available to that Party.

5.11 Notice. Any notice required under this Agreement shall be in writing, and it shall be provided to the representatives of the Parties via email and certified mail. The notice shall be deemed effective upon receipt by both of the other Parties.

5.12 Representatives. The representatives of the Parties under this Agreement are as follows. These representatives may be changed at any time by providing written notice to each of the other Parties:

To the State: Commissioner of Public Lands
Washington State Department of
Natural Resources
1111 Washington Street SE
MS 47001
Olympia, WA 98504

Director
Washington State Department
of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Deputy Supervisor for Aquatics
Washington State Department of
Natural Resources
1111 Washington Street SE
MS 47001
Olympia, WA 98504

Division Chief
AGO Natural Resources Division
P.O. Box 40100
Olympia, WA 98504-0100

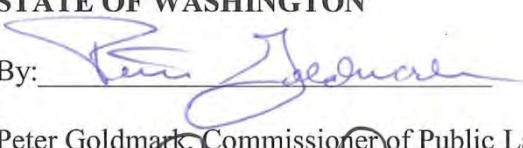
EXECUTION VERSION

ToWFPA:	Executive Director 724 Columbia St. NW Suite 250 Olympia, WA 98501	With a copy to:	Jim Lynch, Counsel 925 Fourth AAve. Suite 2900 Seattle, WA 98104
ToCC:	Peter Goldman, Counsel Washington Forest Law Center 615 Second Avenue, Suite 360 Seattle, Washington 98104-2245	With a copy to:	Parties listed in Attachment 4.

5.13 Counterpmis. This agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument as if all the signatory Parties to all of the counterparts had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures, and may be attached to another counterpmi of this Agreement identical in form having attached to it one or more signature pages.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective authorized representatives, intending to be bound legally.

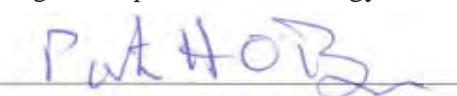
STATE OF WASHINGTON

By: 
Peter Goldmark, Commissioner of Public Lands

Date: 5/24/2012

By: 
Ted Sturdevant, Director
Washington Department of Ecology

Date: 5-24-12

By: 
Patricia Hickey O'Brien
Senior Assistant Attorney General
Counsel for State of Washington

Date: 5/24/2012

WASHINGTON FOREST PROTECTION ASSOCIATION

By: _____

Date: _____

Mark Doumit, Executive Director

Its Counsel: _____

Date: _____

WASHINGTON FOREST PROTECTION ASSOCIATION

By: Mark Doumit Date: 5/24/12

Mark Doumit, Executive Director

Its Counsel: J. L. J. Date: 5/24/12

WASHINGTON ENVIRONMENTAL COUNCIL

By: _____ Date: _____

Joan Crooks, Executive Director

Its Counsel: _____ Date: _____

CONSERVATION NORTHWEST

By: _____ Date: _____

Its Counsel: _____ Date: _____

WASHINGTON STATE CHAPTER OF SIERRA CLUB

By: _____ Date: _____

Its Counsel: _____ Date: _____

WILD FISH CONSERVANCY

By: _____ Date: _____

Its Counsel: _____ Date: _____

PACIFIC RIVERS COUNCIL

By: _____ Date: _____

Its Counsel: _____ Date: _____

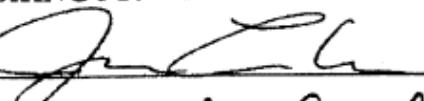
OLYMPIC FOREST COALITION

By: _____ Date: _____

Its Counsel: _____ Date: _____

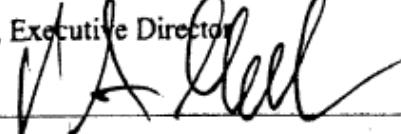
EXECUTION VERSION

WASHINGTON ENVIRONMENTAL COUNCIL

By: 

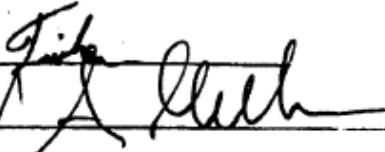
Date: 5/24/12

Joan Crooks, Executive Director

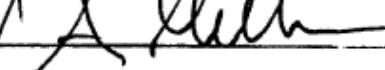
Its Counsel: 

Date: 5/24/12

CONSERVATION NORTHWEST

By: 

Date: 5-23-12

Its Counsel: 

Date: 5/24/12

WASHINGTON STATE CHAPTER OF SIERRA CLUB

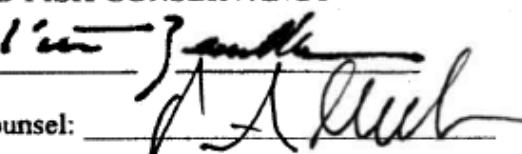
By: _____

Date: _____

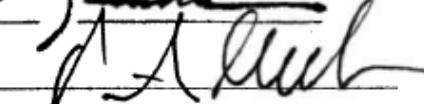
Its Counsel: _____

Date: _____

WILD FISH CONSERVANCY

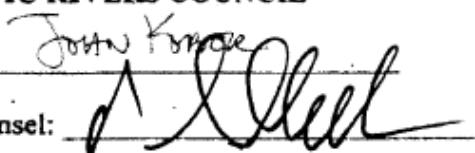
By: 

Date: 5/24/12

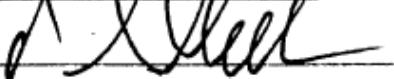
Its Counsel: 

Date: 5/24/12

PACIFIC RIVERS COUNCIL

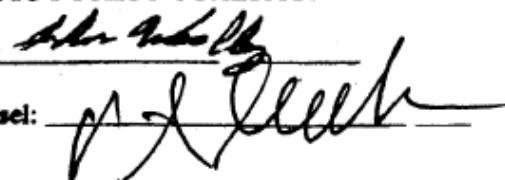
By: 

Date: 5/24/12

Its Counsel: 

Date: 5/24/12

OLYMPIC FOREST COALITION

By: 

Date: 5/24/12

Its Counsel: 

Date: 5/24/12

Attachment 1

Potential Clarifications to the FPHCP Implementing Agreement

The State will request the following clarification to IA §. 7.1:

7.1 State Funding.

7.1.1 The State will use its best efforts to obtain such funds as may be needed for the State to fully implement the HCP. The appropriations of State funding shall be within the sole discretion of the State Legislature. The amount of State funding expended in the 2003-2005 Biennium for administration of the Department of Natural Resources' forest practices regulatory program was \$16.9 million, and the amount of federal funding expended by the State in the 2003-2005 Biennium for administration of the Department of Natural Resources' forest practices regulatory program was \$5.8 million, both measured in 2005 dollars.

The State will promptly notify the Services of any appreciable reduction in available funding below \$22.7 million measured in 2005 dollars calculated using Personal Consumption Expenditures Price Deflators ("PCE"), or any material change in its financial ability to fulfill its obligations under the HCP (Minimum Funding). For the purposes of section 7.1, the forest practices regulatory program includes region operations, region support, GIS support, FPARS administration, compliance monitoring, training, the Forest Practices Board, the Small Forest Landowner Office, and the adaptive management program.

7.1.2 The State and Services will use the following process if Minimum Funding is not achieved in a specific legislative session:

- (a) Within thirty (30) days after the effective date of the legislation causing a funding reduction below Minimum Funding, the State will notify the Services in writing that a funding reduction or material change in financial ability has occurred. If deemed necessary by the Services, the Services will, within ten (10) days after receipt of the State's notice, specify any short-term mitigation measures the State must take to avoid suspension or revocation of the permit until the end of the next legislative session.
- (b) The State will convene a process to develop a plan to address the reduced funding ("Plan"). Within thirty (30) days after giving the notice in (a) above, the State will convene a meeting of the Forest and Fish caucus leaders, including the Services, to collaborate on development of the Plan. The Plan will presume that the restoration of the Minimum Funding is required, but may include an explanation of why restoring the Minimum Funding is not necessary to enforce the forest practices regulatory program, including the adaptive management program, or achieve the conservation goals of the HCP for reasons including, but not limited to, improvements or efficiencies in DNR's forest practices regulatory and enforcement program, reductions in

timber harvest, or completion of adaptive management CMER projects. The Plan will also identify a strategy to restore funding to the forest practices regulatory program, including, to the extent permitted by applicable law, a joint advocacy strategy. The State shall complete its Plan by approximately August 15 and forward it to the Services. If the Plan does not restore funding to Minimum Funding, the State must include an explanation of why the funding reduction is not materially necessary to enforce the forest practice regulations, including the adaptive management program, and must also identify alternatives to funding that minimize any adverse effects of the funding reduction on the achievement of the conservation goals of the HCP. As part of the collaboration, if the Services conclude that the funding reduction could provide less on-the-ground protection for covered species or would have a material adverse impact on the achievement of the conservation goals of the HCP, the Services will advise the State so that the State can modify the Plan before it is finalized. The Services may also provide guidance to the State on funding priorities until the end of the next legislative session.

- (c) By September 15 in the year prior to the next regular legislative session, the State will submit the Plan to the Services, the Governor, the Legislature, and the Forest Practices Board.
- (d) Concurrently, the Services will send the Governor, the Legislature, and the Forest Practices Board a letter that explains the consequences, including suspension or revocation of the incidental take permits that may result from a failure to provide the necessary funds to implement the Plan.
- (e) The State will notify the Services within thirty (30) days after the end of the next regular legislative session whether the Plan has been successfully funded and implemented.
- (f) If the Plan is not fully funded or implemented, within thirty (30) days of receipt of the notice in (e), the Services will provide the State with an initial assessment of whether the Plan, as funded or implemented, would enable the State to implement the forest practices regulatory program, including the adaptive management program, at comparable levels and rates to those analyzed by the Services in the Forest Practices Habitat Conservation Plan and their Biological Opinions for Permit issuance.
- (g) If the State objects to the Services' initial assessment conducted in (f), within thirty (30) days after the State receives this initial assessment, the Services and State shall use dispute resolution under Par. 12.3.2 of this Agreement for a period not to exceed sixty (60) days.
- (h) If the dispute is not resolved by the expiration of this period, the Services shall notify the State in writing whether or not one or both of the Incidental Take Permits will be suspended or revoked. The Services will consider the

following non-exclusive factors when considering whether to suspend or revoke the Incidental Take Permit: (1) the reason(s) for the State's non-achievement of the Plan; (2) DNR's most recent compliance report and the trend of previous years' compliance reports; (3) the number of adaptive management projects conducted, completed, and (if necessary) enacted into rule; (4) the backlog of uncompleted adaptive management projects and the reasons for this backlog; (5) DNR staffing levels; and (6) the extent of the State's monetary shortfall and the prospects for curing this shortfall in the Legislature. The State's successful funding and implementation of the adaptive management program is a mandatory element of the HCP. The Services shall reinitiate consultation pursuant to 50 C.F.R. §401.16 (or its successor provision), on issuance of the ITP, unless the Services determine, based on the best available scientific information, that any deficiencies in the State's funding or implementation of adaptive management would not have a material effect on listed species or their critical habitat.

Attachment 2
Adaptive Management Proposal
Improvements to the Program's Process for Making Decisions

I. Policy:

- a. All participants make a renewed commitment to participation, collaboration and striving for consensus.
- b. Change Policy committee to FPB appointment of official members as nominated by the respective caucus (voting) that are caucus principals or their designee (alternates should also be designated). The Policy committee will be composed of caucus principals or their designee. The Policy committee will act as a consensus-based body.
- c. For purposes of this representation, the following will each have one position on the committee: One designee representing both WDFW and Ecology, Commissioner of Public Lands or designee, Eastside Tribes, Westside Tribes, Conservation Caucus, Industrial Forest Landowners, Small Forest Landowners, Federal Agencies, Local Government.
- d. Though Policy committee members may have support staff that can be consulted, Policy members or alternates are the primary participants at Policy meetings.
- e. DNR will, by September, 2012, retain an independent neutral facilitator at Policy. As consistent with State contracting laws and requirements, before hiring this Facilitator, DNR will give the Policy committee, or a subcommittee thereof, the opportunity to interview and consider all of the candidates. In making a hiring decision, DNR will give strong consideration to Policy's consensus opinion or, if consensus cannot be reached, to the opinion of the majority of the Policy committee. The Facilitator will be brought in under the following circumstances:
 - i. During Stage 1 of Dispute Resolution,
 - ii. At the discretion of the co-chairs in anticipation of a substantial issue being discussed,
 - iii. Two times per year for a meeting of the caucus principals, and
 - iv. For up to nine months following implementation of this agreement in order to enhance the participants' ability to work together as new members are appointed.

II. Work Priorities:

- a. Require Policy to develop and implement a prioritized work plan to be adopted by the FPB.

III. Decision Timelines/Dispute Resolution:

- a. Revise dispute resolution (DR) timeline to a maximum of two (2) months in Stage 1 for both CMER and Policy and three (3) months for Stage 2.
- b. Allow CMER to utilize stage 2 of DR.
- c. If a consensus decision is not reached by CMER in stage 2, the issue will be forwarded to Policy by the Adaptive Management Program Administrator for a decision.
- d. These changes result in a maximum 5 month DR process, though timelines may be extended by consensus of the committee if substantive progress is being made.

In the event the Policy committee cannot reach consensus following stage 2 dispute resolution on an issue and the issue advances to the Forest Practices Board, the AMPA shall deliver the respective majority and minority recommendations to the Forest Practices Board without a separate formal recommendation. The Forest Practices Board shall reserve its right to ask questions of the AMPA relating to these matters.

Attachment 2-1 is a flow chart that illustrates this proposal.

Attachment 3

Adaptive Management Proposal Master CMER Schedule

Attached is a proposed Master Schedule of Cooperative Monitoring, Evaluation & Research Committee (CMER) work (Attachment 3-1). This schedule is based, in large part, on CMER's current work plan (2013) as approved by the Forest and Fish Policy and the Forest Practices Board. The following are components of this proposal:

- 1) The Master Schedule will be adopted using the adaptive management program (AMP). The proposal would be approved by the Forest Practices Board, reviewed periodically, and likely changed over time as projects are completed and/or re-prioritized.
- 2) Once the Master Schedule is approved by Forest and Fish Policy and the Forest Practices Board, it must be reviewed and updated at least every four years. The Master Schedule will prioritize projects for the next 20 years at each 4-year review.
- 3) The AMP will complete work according to the Master Schedule once approved by the Forest Practices Board, or as it is amended by the Board after using the adaptive management program.
- 4) By the May 2014 Forest Practices Board meeting and every two years thereafter, the AMP administrator will report to the Forest Practices Board on the progress of the adaptive management program. The report will include a description of the progress made in implementing the Master Schedule, including work completed, projects that are ongoing and on schedule, those projects that are behind schedule, and the Policy response to final CMER reports.
- 5) At the next regular Forest Practices Board meeting after presentation of the progress report, the Forest Practices Board will make a final determination whether the AMP is in substantial compliance with the Master Schedule.
- 6) The Forest Practices Board determination and findings will be included in the DNR annual report to the Services in the year the determination is made.
- 7) If the Board determines that the AMP is not in substantial compliance with the Master Schedule, the Board shall so notify the Services by letter within 30 days of that determination.
- 8) When this proposal is finalized, it should include any recommended changes to the adaptive management process that detail the development of the Master Schedule, review and approval, and how it will be used to guide AMP work.
- 9) By 2031, all of the prioritized projects on the Master Schedule, as amended by the Board, will be completed in accordance with this proposal. By 2040, all of the projects on the Master Schedule, as amended by the Board, will be completed in accordance with this proposal.

Attachment 4

FORESTS AND FISH CONSERVATION CAUCUS

MEMBERS:

Washington Environmental Council

Joan Crooks, Executive Director
1402 Third Avenue, Suite 1400
Seattle, WA 98101
joan@wecprotects.org

Conservation Northwest

Mitch Friedman, Executive Director
1208 Bay Street, #201
Bellingham, WA 98225
mitch@conservationnw.org

Olympic Forest Coalition

John Woolley, President PO Box
461
Quilcene, WA 98376
woolley@tfon.com

Sierra Club

Ellen Medlin, Associate Attorney
85 Second Street, Second Floor San
Francisco, CA 94105
ellen.medlin@sierraclub.org

Pacific Rivers Council

John Kober, Executive Director
317 SW Alder Street, Suite 900
Portland, OR 97204
john@pacificrivers.org

Wild Fish Conservancy

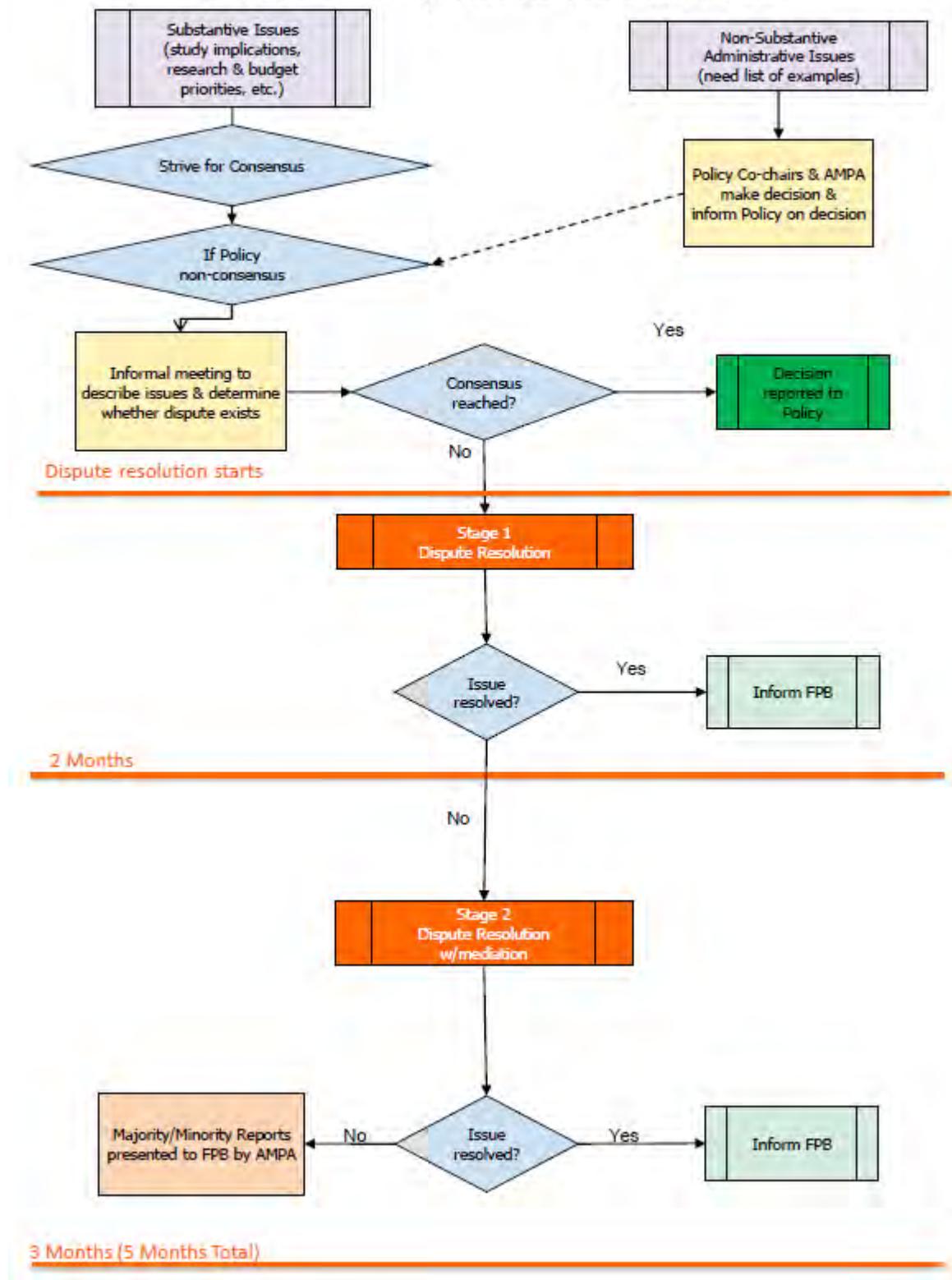
Kurt Beardslee, Executive Director
15629 Main Street NE P.O.
Box 402
Duvall, WA 98019
kurt@wildfishconservancy.org

OF COUNSEL:

Washington Forest Law Center

Peter Goldman, Director and Staff Attorney
Wyatt Golding, Staff Attorney
615 Second Avenue, Suite 360
Seattle, WA 98104
pgoldman@wflc.org

Attachment 2-1
Policy Decision-Making Process for Non-CMER Proposal



For a hard copy of this document, *Recommended FP-HCP Adaptive Management Program Priority Projects*, please call 360-902-1400.

Appendix #7



STATE OF WASHINGTON

May 24, 2012

Ms. Theresa Rabot
Assistant Regional Director, Ecological Services
United States Fish and Wildlife Service
Pacific Region
911 N.E. 11th Avenue
Portland, Oregon 97232-4181

Mr. William W. Stelle, Jr.
Regional Administrator
NOAA National Marine Fisheries Services
7600 Sand Point WayNE
Seattle, Washington 98115-0070

Sent Electronically and via U.S. Mail, Registered and Return Receipt Requested

RE: Notice and Request for Minor Modification to Implementing Agreement for Washington State Forest Practices Habitat Conservation Plan (USFWS Permit TE 121202-0, NMFS Permit 1573)

Dear Ms. Rabot and Mr. Stelle:

The State of Washington requests that the United States Fish and Wildlife Service and the National Oceanic and Atmospheric Administration's National Marine Fisheries Service accept this proposal for a minor modification to clarify section 7 of the Implementing Agreement (IA) for the Washington State Forest Practices Habitat Conservation Plan (HCP). In accordance with the procedures for a minor modification in IA paragraph 11.1, this letter includes the reasons for the proposed modification and an attachment with the suggested language.

The language being clarified occurs in IA paragraph 7.1 (State Funding). The State is requesting to clarify the existing provisions regarding the minimum funding level and specify a series of procedural steps to follow should funding fall below the minimum threshold. While the existing language narratively describes the minimum funding level by reference to the 2003-2005 funding biennium (in 2005 dollars), the requested amendment identifies this funding level with a specific dollar figure and includes a way to calculate whether that funding level is met. The clarification adds procedural steps for a process that will allow others interested in forestry regulation in Washington to participate in the planning process to address any appreciable reduction in funding.

This proposal arises out of discussions which occurred shortly after the Conservation Caucus's December 21, 2011, letter threatening to challenge the USFWS's and National Marine Fisheries Service's decisions approving Incidental Take Permits for the Forest Practices HCP. Those decisions were made nearly six years ago, and the State, along with other interested parties, have been working to arrive at a mutually agreeable solution that avoids federal litigation on this and other issues before the closure of the federal statute of limitations period. Your staff have been

Ms. Theresa Rabot
Mr. William W. Stelle, Jr.
May 24, 2012
Page 2 of 2

included in these discussions, and we understand that they support the proposed minor modifications.

The State of Washington has not fallen below any critical funding levels with respect to this HCP and believes that the provision addressed in this minor amendment never needs to be implemented during the remaining 44 years of this agreement. Still, we believe these proposed changes will provide clarity to those administering or implementing this agreement and will provide peace of mind to those interested in the HCP that if a funding shortfall arises, the planning process to address the shortfall will be inclusive.

If your agencies can approve these changes, the State would like them to be effective on or before May 25, 2012, due to the statute of limitations issue mentioned above. Thank you for your thoughtful consideration and speedy approval of this minor modification proposal.

Sincerely,



CHRISTINE O. GREGOIRE
Governor



PETER GOLDMARK
Commissioner of Public Lands

cc: Ken Berg, Manager, USFWS, Washington Fish and Wildlife Office
Steve Landino, NMFS, Washington State Habitat Director

I. IA §. 7.1 would be changed as follows:

7.1 State Funding.

7.1.1 The State will use its best efforts to obtain such funds as may be needed for the State to fully implement the HCP. The appropriations of State funding shall be within the sole discretion of the State Legislature. The amount of State funding expended in the 2003-2005 Biennium for administration of the Department of Natural Resources' forest practices regulatory program was \$16.9 million, and the amount of federal funding expended by the State in the 2003-2005 Biennium for administration of the Department of Natural Resources' forest practices regulatory program was \$5.8 million, both measured in 2005 dollars.

The State will promptly notify the Services of any appreciable reduction in available funding below \$22.7 million measured in 2005 dollars calculated using Personal Consumption Expenditures Price Deflators ("PCE"), or any material change in its financial ability to fulfill its obligations under the HCP (Minimum Funding). For the purposes of section 7.1, the forest practices regulatory program includes region operations, region support, GIS support, FPARS administration, compliance monitoring, training, the Forest Practices Board, the Small Forest Landowner Office, and the adaptive management program.

7.1.2 The State and Services will use the following process if Minimum Funding is not achieved in a specific legislative session:

- (a) Within thirty (30) days after the effective date of the legislation causing a funding reduction below Minimum Funding, the State will notify the Services in writing that a funding reduction or material change in financial ability has occurred. If deemed necessary by the Services, the Services will, within ten (10) days after receipt of the State's notice, specify any short-term mitigation

measures the State must take to avoid suspension or revocation of the permit until the end of the next legislative session.

(b) The State will convene a process to develop a plan to address the reduced funding ("Plan").

Within thirty (30) days after giving the notice in (a) above, the State will convene a meeting of the Forest and Fish caucus leaders, including the Services, to collaborate on development of the Plan. The Plan will presume that the restoration of the Minimum Funding is required, but may include an explanation of why restoring the Minimum Funding is not necessary to enforce the forest practices regulatory program, including the adaptive management program, or achieve the conservation goals of the HCP for reasons including, but not limited to, improvements or efficiencies in DNR's forest practices regulatory and enforcement program, reductions in timber harvest, or completion of adaptive management CMER projects. The Plan will also identify a strategy to restore funding to the forest practices regulatory program, including, to the extent permitted by applicable law, a joint advocacy strategy. The State shall complete its Plan by approximately August 15 and forward it to the Services. If the Plan does not restore funding to Minimum Funding, the State must include an explanation of why the funding reduction is not materially necessary to enforce the forest practice regulations, including the adaptive management program, and must also identify alternatives to funding that minimize any adverse effects of the funding reduction on the achievement of the conservation goals of the HCP. As part of the collaboration, if the Services conclude that the funding reduction could provide less on-the-ground protection for covered species or would have a material adverse impact on the achievement of the conservation goals of the HCP, the Services will advise the State so that the State can modify the Plan before it is finalized. The Services may also provide guidance to the State on funding priorities until the end of the next legislative session.

- (c) By September 15 in the year prior to the next regular legislative session, the State will submit the Plan to the Services, the Governor, the Legislature, and the Forest Practices Board.
- (d) Concurrently, the Services will send the Governor, the Legislature, and the Forest Practices Board a letter that explains the consequences, including suspension or revocation of the incidental take permits that may result from a failure to provide the necessary funds to implement the Plan.
- (e) The State will notify the Services within thirty (30) days after the end of the next regular legislative session whether the Plan has been successfully funded and implemented.
- (f) If the Plan is not fully funded or implemented, within thirty (30) days of receipt of the notice in (e), the Services will provide the State with an initial assessment of whether the Plan, as funded or implemented, would enable the State to implement the forest practices regulatory program, including the adaptive management program, at comparable levels and rates to those analyzed by the Services in the Forest Practices Habitat Conservation Plan and their Biological Opinions for Permit issuance.
- (g) If the State objects to the Services' initial assessment conducted in (f), within thirty (30) days after the State receives this initial assessment, the Services and State shall use dispute resolution under Par. 12.3.2 of this Agreement for a period not to exceed sixty (60) days.
- (h) If the dispute is not resolved by the expiration of this period, the Services shall notify the State in writing whether or not one or both of the Incidental Take Permits will be suspended or revoked. The Services will consider the following non-exclusive factors when considering whether to suspend or revoke the Incidental Take Permit: (1) the reason(s) for the State's non-achievement of the Plan; (2) DNR's most recent compliance report and the trend of previous years' compliance reports; (3) the number of adaptive management projects

conducted, completed, and (if necessary) enacted into rule; (4) the backlog of uncompleted adaptive management projects and the reasons for this backlog; (5) DNR staffing levels; and (6) the extent of the State's monetary shortfall and the prospects for curing this shortfall in the Legislature. The State's successful funding and implementation of the adaptive management program is a mandatory element of the HCP. The Services shall reinitiate consultation pursuant to 50 C.F.R. §401.16 (or its successor provision), on issuance of the ITP, unless the Services determine, based on the best available scientific information, that any deficiencies in the State's funding or implementation of adaptive management would not have a material effect on listed species or their critical habitat.

Appendix #8



National Marine Fisheries Service
7600 Sand Point Way N.E.
Seattle, Washington 98115

United States Department of Commerce
National Marine Fisheries Service
United States Department of the Interior
U.S. Fish and Wildlife Service



U.S. Fish and Wildlife Service
911 NE 11th Avenue
Portland, Oregon 97232

May 25, 2012

Governor Christine O. Gregoire
State of Washington
PO Box 40002
Olympia, WA 98504-0002

Peter Goldmark
Commissioner of Public Lands
PO Box 47000
Olympia, WA 98504-7000

RE: Your notice and rationale for minor modification to the Implementation Agreement for the Washington State Forest Practices Habitat Conservation Plan (USFWS Permit TE 121202-0, NMFS Permit 1573)

Dear Governor Gregoire and Commissioner Goldmark:

We recently received your request, dated May 24, 2012, for a minor modification to the referenced Implementation Agreement. We concur with your request, and therefore the Implementation Agreement is modified effective today, May 25, 2012.

Sincerely,

William W. Stelle, Jr.
Regional Administrator
NOAA Fisheries

for S. Berg
Theresa Rabot
Assistant Regional Director
U.S. Fish and Wildlife Service