



WASHINGTON FOREST PROTECTION ASSOCIATION

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Transmitted Via Email

Mr. Patrick Lizon
Water Quality Program
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

RE: 2015 Proposed Water Quality Assessment

Dear Mr. Lizon:

The Washington Forest Protection Association (WFPA) appreciates Ecology's public outreach efforts during consideration of proposed changes to the Water Quality Assessment. WFPA represents corporate, family and individual forest landowners who sustainably grow and harvest timber on about 4 million acres in Washington State. Given that most of the water that flows in fresh water streams in the state originates or passes through working forest land, we are very interested in both the process and the outcome of efforts by the state to achieve and maintain clean water throughout Washington's aquatic environment.

I am writing today to urge the Department of Ecology to place waters that have been determined to be out of compliance with water quality standards into category 4(b), when those waters are on or flowing through lands where forestry activities are regulated by the Washington Forest Practices Act. Category 4(b) is the appropriate category for waters having a cleanup program in place. We believe the Washington State Forest Practices Habitat Conservation Plan and state forest practices rules, along with the regulatory processes, adaptive management program, and multi-agency oversight constitute a pollution control program that qualifies as a *Pollution Control Project* under the Clean Water Act.

The 1999 Forests and Fish Report (FFR), subsequent legislation, and the 2001 Forests and Fish Forest Practices Rules established a program in statute and administrative code that is intended to meet the Clean Water Act water quality standards and Endangered Species Act requirements for protecting listed fish species, as well as, all other fish and six stream dependent amphibian species present in Washington waters. Water quality assurances expressed by the Department of Ecology following the FFR affirmed that the rules, regulations and other measures specified in this program are expected to result in water quality improvements and a pathway for maintaining Clean Water Act coverage. These assurances were conditionally renewed in a letter from the Director of the Department of Ecology on October 9, 2009. Certain benchmarks for progress in monitoring and effectiveness research and administrative process must be met to retain the agency's assurance that the Forests and Fish program is continuing to progress toward compliance. The Environmental Protection Agency explicitly supports these actions by the Department of Ecology.

In 2006, the Washington State Forest Practices Habitat Conservation Plan for ESA listed salmonids was approved by the U. S. Fish and Wildlife Service and the NOAA Fisheries Service (collectively the Services), and the state was issued an Incidental Take Permit signifying that the Forests and Fish program meets federal Endangered Species Act requirements for listed salmon, steelhead and bull trout in Washington.¹ We note here that the Washington water quality standards for stream and other water bodies on forest land are based on the habitat needs of fish that use these waters.

WFPA believes that the Forests & Fish program meets the criteria for a Pollution Control Project under the Clean Water Act.

Must Have Criteria

- The Forests & Fish program is a problem-specific plan to limit sediment delivery from forest roads, timber harvest and morphological channel erosion caused by excessive forestry related water runoff and delivery. The program also addresses the problem of insufficient large woody debris (LWD) delivery to stream channels that in the past likely resulted in an increased rate of sediment delivery to downstream fish habitat. The plan is specific to streams, wetlands and other waters and to the protection of their associated riparian areas. Waters covered by the plan are those on state and private forest lands -- those lands regulated under the Washington Forest Practices Act. The Department of Natural Resources (DNR) maintains a GIS database containing the land subject to the Forest Practices Act and a hydro-layer identifying streams and other water bodies covered by the Act.
- The schedule of completion for forest road improvements to address runoff water and sediment delivery is specified in the forest practices rules. Since 2001, large landowners have been required to establish Road Management and Abandonment Plans (RMAP), with individual actions scheduled in each approved RMAP as specified by rule. Riparian forest protection rules addressing stream shading, bank erosion and large woody debris (LWD) were implemented in the Forests and Fish forest practices rules, effective date in 2001. Individual riparian and unstable slope actions are implemented immediately upon initiation of related forest practice activity. Measurable milestones for administrative actions and effectiveness monitoring are spelled out in the assurances issued by the Department of Ecology in 2009.
- Statutes and rules governing the Forests & Fish program include a multi-stakeholder monitoring component that systematically evaluates the effectiveness of the forest practices rules. The program includes a full time administrator, a scientific monitoring committee, independent scientific peer review, and a policy committee. To date, the program has completed more than 28 peer reviewed monitoring and effectiveness studies. Seventeen studies are under way and several more are in the process of being scoped. An additional \$5.9 million/biennium for studies and science is currently being considered by the Washington Legislature and supported by all of the Forests & Fish collaborators. DNR established a compliance monitoring program in 2006 that is now in its fifth biennial measurement cycle. The compliance monitoring team includes specialists from the Department of Ecology and the Department of Fish and Wildlife. Tribes are also invited to participate.

¹ See: http://www.westcoast.fisheries.noaa.gov/habitat/conservation_plans/wa_dnr_state_forest_practices_hcp.html

- The Forest Practices Adaptive Management Program (AMP) is established in statute. The AMP functions to produce peer review science that is reported to a policy advisory group and directly to the Forest Practices Board. To date, at least two technical reports have resulted in changes to the riparian rules for timber harvest, resulting in improved effectiveness. The forest road rules and Board Manual have also been strengthened to assure compliance with the road management and unstable slope standards. Adaptive management has included policy recommendations and Board action to address small landowner concerns over road maintenance planning and the complexity of riparian rules. Adaptive management has also dealt with the economic stress in the forest products industry that has delayed completion of some road upgrades while assuring that upgrades on active haul roads are in place.
- Forests & Fish pollution control actions are deemed adequate by the Department of Ecology through the agency's special position on the Forest Practices Board in regard to rules pertaining water quality protection. By law, the Department of Ecology can require DNR to enforce forest practices rules designated for water quality protection. The rules are also monitored by the federal Services and EPA through their participation in the Adaptive Management Program. Forest practices rules are enforced by DNR through field compliance foresters with civil authority, including on-site authority to protect water quality with notices to comply and stop work orders. The Department of Ecology maintains forestry expertise in the field to monitor DNR's field compliance function. Forest practices are monitored by a number of tribal resource specialists supported by state and federal funding, specifically for the purpose of protecting fish habitat through the proper implementation of the Forests & Fish program.
- The Forests & Fish program and forest practices rules have proven to be feasible and enforceable through the 14-year history of the program. The compliance monitoring has reported on riparian protection and road construction and maintenance activities -- the two areas of forest practices most likely to affect water quality. Each time, substantial overall compliance with the rules exceeds 80% or better.² The Forests & Fish Program is implemented through the forest practice rules and regulatory procedures. Private and state landowners and managers are required by law to conduct forestry activities in accordance with these rules. Civil enforcement authority is also in place for these activities.
- The program is actively implemented with each forest practices application and approval involving a regulated water or wetland in the state. Through 2014, RMAP for industrial forest landowners alone has resulted in the opening of 4,846 barriers to fish passage and 2,569 miles of fish habitat, as well as 20,025 miles of road with drainage improvements to minimize water and sediment delivery to streams.³ An AMP study shows that delivery of sediment and water to streams is eliminated or minimized on 89% of industrial forest roads under the plan. Water Quality Assurances articulated by the Department of Ecology provide the benchmarks and oversight for continued progress of the Forests & Fish program monitoring program.

Criteria for a Program More Likely to Gain Approval

- Descriptions of the management measures for the Forests & Fish program are spelled out in state statute, in the forest practices rules and in the board manual. Implementation began immediately upon effectiveness of the emergency rule package in 2000, and the permanent rule in 2001.

² See: http://www.dnr.wa.gov/Publications/fp_cm_final_report_2012_2013.pdf.

³ See: http://www.dnr.wa.gov/Publications/fp_hcp_2013_ch11.pdf

- Time limits have been established for forest road improvements.⁴ Compliance with road maintenance standards for roads involved in log transportation activities was initiated immediately when new rules became effective. Riparian protections to address temperature, bank erosion and LWD delivery to streams were initiated immediately and will continue on pace with the 35 to 60 year timber harvest schedule common in Washington State.
- Criteria used to determine load reduction are found in Schedule L-1⁵ of the FFR. Because the plan is based on implementing regulatory restrictions on forest practices activities and best management practices, the criteria are in the form of functional objectives and performance targets.
- DNR conducts ongoing training programs for forest practices rules and best management practices. These training programs are available to internal agency staff, forest landowners and staff from cooperating agencies and organizations. Training is conducted in four major venues:
 - o Washington Contract Loggers Association (WCLA) training
 - o Forest Practices program training
 - o Subject-based training
 - o Region training

Subjects include basic forest practices rules, water type changes, riparian management zones, wildlife leave trees, unstable slopes, channel migration zone identification, wetlands and wetland management zones.

In addition, road construction and maintenance focusing on minimizing sediment and water delivery are provided periodically by forestry organizations.

WFPA members strongly urge the Department of Ecology to take this opportunity to fully recognize the water quality improvement efforts and ongoing progress toward full compliance with water quality standards that are in place and successful on state and private forest lands. EPA approved water quality assurances, the federal services approval of the Forest Practices Habitat Conservation Plan, and the documented success of the program is sufficient evidence to put impaired waters on lands subject to the Washington State Forest Practices Act from Category 5 to Category 4(b).

Thank you for your attention.

Sincerely,



Karen Terwilleger

Senior Director of Forest and Environmental Policy

⁴ The initial completion date of June 30 2016 was extended to October 31, 2021 due to the recent and continuing economic hardship in the forest industry.

⁵ See: http://www.dnr.wa.gov/Publications/fp_rules_forestsandfish.pdf