

WSR 21-06-019
PREPROPOSAL STATEMENT OF INQUIRY
FOREST PRACTICES BOARD

[Filed February 22, 2021, 9:45 a.m.]

Subject of Possible Rule Making: Experimental harvest within the five hundred foot terminus buffer of a Type Np nonfish-bearing stream in Northeast Washington (WAC 222-30-022 (2)(iii)(c)(III)).

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 76.09.040, 34.05.313.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: This rule is necessary to authorize a single cooperating forest landowner company to conduct a harvest within the riparian area of a single nonfish-bearing stream (Type Np) in excess of what is permitted currently in the forest practices rules (WAC 222-30-022(2)). This deviation from the rules is needed to allow the stream to be included in a scientific study to examine the effect of not harvesting along segments of Type Np which seasonally go dry. This study is being conducted by the state's formal forest practices board's (FPB) adaptive management program (AMP) with regulatory oversight by the state department of natural resources. The pilot rule applies only to the one landowner for only the one section of stream identified as needed by the researchers with the AMP. The specific provision of the existing regulations this pilot rule would not adhere to is WAC 222-30-022 (2)(iii)(c)(III), which specifies that clear-cuts "(III) Not be located within five hundred feet of the intersection of a Type S or F Water." The upper portion of the last five hundred feet of the study stream would be clear-cut under this pilot rule to examine the environmental effects of clear-cut harvesting a section of Np stream that goes dry in the summer.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The state FPB is the oversight agency with the authority to approve this pilot activity. The pilot rule is being requested as part of the formal state FPB's adaptive management program which is overseen by a large group of interested entities including the departments of ecology, fish and wildlife, agriculture, and commerce, along with the federal United States Fish and Wildlife and National Marine Fisheries Agency.

Process for Developing New Rule: Pilot rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Patricia Anderson, FPB Rules Coordinator, Department of Natural Resources, Forest Practices Division, 1111 Washington Street East, 4th floor, P.O. Box 47012, Olympia, WA 98504-7012, phone 360-902-1413, fax 360-902-1428, email forest.practicesboard@dnr.wa.gov.

Additional comments: The Eastern Washington Type N riparian effectiveness monitoring project is an active field study being conducted by the state's forest practices adaptive management program. The timber fish and wildlife policy committee along with the cooperative monitoring, evaluation, and research (CMER) committee have requested the FPB establish a pilot rule to allow the study to more effectively test the effect of buffering and not-buffering sections of Type Np (nonfish-bearing perennial) streams that seasonally go dry. One section of one of the available study sites was found suitable for testing the effect of clearcutting along a seasonally dry stream segment. This segment of stream, however, extends into the final five hundred

feet of the Np stream upstream of a Type F (fish-bearing) stream where the rules require a continuous buffer be retained. Pilot rules have been used in prior studies developed by CMER to allow cooperating landowners to selectively deviate from specific elements of the rules in order to test rule alternatives or to ensure consistent harvest intensities across test sites.

February 10, 2021
Stephen Bernath
Chair