

Innovative Responses to the Forest Practices Permitting Process

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This paper is part of a series of discussion papers written to provide background information on salient issues identified as important by participants at the *Saving Washington's Working Forest Land Base* forum in November 2004.

Abstract

Over the years, many landowners have protested that Washington's Forest Practices Application/Notification (FPA/N) form has become increasingly difficult to complete. An FPA/N is required in order for landowners to complete any manipulation of their forested areas, including management and harvest activities. Washington's Department of Natural Resources (DNR) recognized the need to simplify the FPA/N and successfully reduced the form to four concise pages. However, as the regulations change and become more complex so does the FPA/N.

Both landowners and Forest Practices foresters are challenged to have an understanding of the intricacies of the regulations. For larger landowners, who often keep several foresters and other professionals knowledgeable about the Forest Practices Rules or the FPA/N on staff, submitting the FPA/N is a regular part of preparing for any major management activity on their timberlands. For a small landowner, preparing the FPA/N can be difficult since small operators may not employ a trained forester or regularly submit FPA/Ns and are often unfamiliar with the process.

Several suggestions for easing the burden on small landowners are included and described in this paper. The first suggestion described is to extend the period of the permit from its current two years to five years. A second option is to increase the application exemption from those who cut less than 5,000 to those who cut less than 20,000 board feet per year. A third option is for the DNR to work with landowners to develop a long term (up to 15 years) management plan submitted in conjunction with their Forest Practices Application. The last option discussed would require the DNR to continue to increase its level of service provided to small landowners by assuming the responsibility of completing the FPA/N.

I. Introduction

Since the adoption of the Forest Practices Act in Washington in 1974, all state and private forest landowners have been required to submit a Forest Practices Application/ Notification (FPA/N) to the state's Department of Natural Resources (DNR) in order to conduct activities on their forestland. Over the years, many landowners have protested that the form has become increasingly difficult. This paper will examine the complaints about the FPA/N process, describe some of the unintended consequences of the complex nature of the process, and review innovative solutions or attempts to alleviate some of the difficulties associated with the process.

II. Forest Practices Application/Notification

“Forest Practices” describe human manipulations of forested areas. Activities under this description include but are not limited to “road construction and maintenance, thinning, salvage, harvesting, reforestation, brush control, and using fertilizers or pesticides” (FPD, 2005). Activities that fall within these categories are subject to oversight by the Forest Practices Division of the DNR in order to “protect the following public resources: water, fish and wildlife and capital improvements of the state or its political subdivisions” (FPD, 2005).

Prior to conducting any forest practice activity, landowners must determine if they need to submit a FPA/N. Once the FPA/N has been correctly completed and submitted, landowners must wait up to 30 days for a decision from the DNR. Before landowners can proceed with the activities planned for the site, they must have an approved FPA. In addition to the FPA/N form, landowners must also submit a map of the area in which the activities are planned, as well as a signed “Notice of Moratorium on Non-Forestry Use of Land” if the proposal is occurring on lands not zoned as Commercial Forestry. The moratorium is a statement of intent on the part of the landowner not to convert the land into non-forest usage within six years of the approval of the FPA/N.

III. Ongoing Adjustments in the FPA/N

Recognizing the need to simplify the FPA/N, the DNR has successfully reduced the form to four concise pages. However, the accompanying instructions to the FPA/N are quite lengthy. For western Washington, the instructions run 28 pages; for eastern Washington, 26 pages. In addition to the required FPA/N and the moratorium, there are additional forms that landowners may be required to complete, depending on the proposed activities and on particular site-specific characteristics that may be subject to additional review. The forms cover issues related to the presence of the marbled murrelet, aerial chemical application, and water type modification.

The fee for the FPA/N is now (in most cases) \$50 per application. An additional \$33 must be submitted to the landowner's county assessor's office for the moratorium form. Once approved, the FPA/N is valid for two years. At the end of two years, landowners can apply for a one-time renewal for uncompleted activities.

All relevant forms are now available on the website of the DNR Forest Practices Division. In the past, forms were available only from Forest Practices region offices. As Forest Practices Rules are updated, landowners must be aware of these changes. For example, terminology on issues related to stream typing, including fish bearing and non-fish bearing streams, may change, requiring regular monitoring of changes to the forms and to the Forest Practices Rules themselves.

IV. Difficulties in the FPA/N Process

Perhaps not surprisingly, as the regulations change and become more complex so does the FPA/N. Both landowners and Forest Practices foresters are challenged to have an understanding of the intricacies of the regulations. For example, under the Forests and Fish rules, navigating all the options for harvesting along fish bearing streams may be too difficult for some landowners; this can result in the decision to avoid harvesting in a particular area because of difficulty in completing the application.

For larger landowners, who often keep several foresters and other professionals knowledgeable about the Forest Practices Rules or the FPA/N on staff, submitting the FPA/N is a regular part of preparing for any major management activity on their timberlands. For small landowners, preparing the FPA/N can be difficult since they may not employ a trained forester or regularly submit FPA/Ns and are often unfamiliar with the process. For landowners who harvest perhaps only once in their lifetime and do not regularly perform major silvicultural activities, the FPA/N can represent a major obstacle (Williamson, 2005; Fox, 2005).

Landowners may also face having their application rejected and returned to them, either because the form is outdated or otherwise incorrectly completed (Stinson, 2005). Alternatively, landowners might hire a consulting forester to fill out the application and monitor the submission process on their behalf, but this can be costly. In addition, as the DNR faces cutbacks in staff time, there are fewer resources available to help clarify the FPA/N.

V. Unintended Consequences

It was not the intent of the writers of the Forest Practices Act to create such a burdensome process for landowners. But as with any policy, there are likely to be unintended consequences and in the case of the FPA/N, some of these are significant for smaller landowners. A process onerous enough to compel a landowner to hire a consultant to complete required forms, thereby increasing costs of harvest operations, was clearly not intended (Sackett, 2005). In some instances, the hurdle can become too daunting and the landowner may choose not to perform or to postpone the necessary silvicultural tasks (Fox, 2005; Williamson, 2005). This can become a significant problem where forest health is an issue, as in eastern Washington. Anecdotal evidence suggests some landowners perform these activities without submitting a form (Fox, 2005).

Additionally, the intent was never to create the now prevalent level of frustration among small landowners, and particularly among those who harvest only once during the duration of owning their forestland (Sackett, 2005).

VI. Innovative Approaches and Suggested Remedies

Reducing the FPA/N to four pages and making all relevant forms available on the DNR website were steps in the right direction. But further steps may be needed to reduce the burden the process places on small landowners, who do not benefit from the same economies of scale as do larger industrial timberland owners. A number of alternatives have been suggested to simplify the process and ease the burden for small landowners. These alternatives are discussed below.

1. Easing Barriers for Small Landowners

One suggestion is to extend the period of the permit to five years from its current two years. This would provide smaller landowners with more flexibility in their management options and reduce the frequency with which they must approach the FPA/N process. At present, there are certain circumstances for which landowners can apply for a multi-year permit up to five years; such circumstances could be expanded.

Landowners are considered “small” if they harvest less than 2 million board feet per year. Landowners seeking to remove less than 5,000 board feet per calendar year for personal use do not need to submit a FPA/N. One suggested solution is to increase this exemption to less than 20,000 board feet per year and permit landowners to sell what they can by removing the “for personal use” qualifier. This would enable some small landowners seeking to harvest small quantities of wood to avoid the FPA/N altogether.

Another solution that is being explored is the idea of the DNR working with small landowners to develop a long term (up to 15 years) management plan in conjunction with their Forest Practices Application.

2. Shifting the Burden

Establishing the Small Forest Landowner’s Office (SFLO) and creating a separate system for the Road Maintenance and Abandonment Plans (RMAPS) reflects recognition on the part of the DNR that there is a need to provide particular services to small landowners. Communication with DNR staff indicates that the DNR is increasingly moving in the direction of further segmenting out small landowners by developing an overstocked stand template as well as a small forest landowner template where all potential factors have been pre-identified and prescriptions predefined (Sackett, 2005). However, there is general consensus that the SFLO is restricted in its ability to better serve landowners given its current budgetary restrictions. A greater capacity on the part of the SFLO to provide specialized consulting and record-keeping services would vastly improve the relationship between small landowners and the DNR.

If some of the burden of completing the FPA/N could be shifted from the landowner to DNR professionals it would achieve several benefits. First of all, it would result in a more equitable distribution of the costs involved in implementing the regulations by shifting the primary burden off of the landowner. Second, no major changes in the form and system would be required. It would require additional DNR staff time, but it would maintain societal confidence in the existing processes. Lastly, the general public would likely approve of this shift because enforcement of the regulations would also improve. The budgetary cuts DNR faces are well known, but the legislature should consider appropriating additional funds to achieve this objective. Such a process could require the landowner to fill out a notice of request for assistance, submit it to DNR, and wait for a Forest Practices forester to become available to assist with the FPA/N (Calhoun, 2005).

VII. Conclusion

Without conducting economic analyses, it is difficult to precisely assess the extent to which the FPA/N process itself serves as a significant disincentive to practicing forestry or owning forestland in Washington. For larger landowners, the FPA/N does not pose a significant disincentive. However, as this paper has discussed, the FPA/N does represent a significant hurdle for small landowners in implementing their forest activities and management. Although the FPA/N is not the “tipping point” at which small landowners determine they can no longer operate, it is the first step in planning forest practices and thus is symbolic in setting the overall tone and attitude with which landowners approach their relationship with the DNR and state regulations. Improving the dialogue and services provided to small landowners will undoubtedly improve the overall process.

There are many options in terms of simplifying the FPA/N process. This paper has focused exclusively on issues related to small forest landowners. Several alternative options for reforming the process and shifting the burden have been reviewed above. There are undoubtedly many more ideas; as the dialogue on this issue continues to develop, others will emerge and possibly be integrated into a well-defined and timely solution.

Literature Cited

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<http://www.dnr.wa.gov/forestpractices/>. All forms and instructions sheets can be found on the website.

Personal Communication with:

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