

Transcript for the Forest Overstory Podcast Regulations Episode

Kevin: Hello and welcome to another episode of the Forest Overstory Podcast. We're glad to have you listening today. My name is Kevin Zobrist, Professor and Extension Forester with Washington State University. And I'm here with my co-host Patrick Schultz, also with Washington State University. Patrick, how are you doing today?

Patrick: I'm great. Thanks, Kevin. Glad to be co-hosting with you again. It's been a little while.

Kevin: It's been a minute, hasn't it?

Patrick: Yeah.

Kevin: Well, we've got some great content lined up today. We have with us Hollis Crapo and Brent Haverkamp with the Washington State Department of Natural Resources Small Forest Land Owner Office. Gentlemen – welcome!

Hollis: Thank you. Glad to be here.

Brent: Thank you, Kevin. Good to be here.

Kevin: So, Hollis and Brent, why don't you briefly introduce yourselves and tell us what you do with the SFLO.

Hollis: Alrighty, I'll start off. My name is Hollis Crapo. I started out in forestry doing timber sale layout, and then moved over to regulation working for the Forest Practices Program in DNR's Northwest region. I worked there for a number of years before moving to the Small Forest Landowner Office where now I primarily do landowner assistance, talking about regulation, um permits, process, rules, all that sort of thing, helping landowners navigate their way through the laws.

Brent: Yeah, and I'm Brent Haverkamp. I actually grew up in Kansas, a state where there's not a whole lot of trees. But once I got my biology degree, I moved out to the Pacific Northwest and worked in Idaho and worked for the Fish and Wildlife Service in Reno, Nevada, in the Sierra Nevada mountains in between Nevada and California. and then I moved back up to Washington and worked for the Washington Department of Fish and Wildlife and then I got my job here with the Department of Natural Resources helping out small forest landowners and helping them with stream typing and wetland delineation as it pertains to a timber harvest and I also help them with wildlife habitat during their

harvest or after their harvest just try to boost the wildlife populations as a lot of small forest landowners really enjoy fish and wildlife and seeing all that out on their property.

Patrick: So, Brent, to follow up on that, it sounds like you have a little bit more of a wildlife bent. Is that just because of your background or is that actually written into your position to provide more expertise with wildlife habitat?

Brent: Yeah, it's kind of both. I've done a fair share of wildlife habitat, working with the NRCS and conservation districts throughout Washington and Kansas and Idaho. So, I kind of have a good background in wildlife, but the DNR also has a wildlife biologist, Ken Bevis, that is also a great resource for people. So, kind of Ken and I kind of work together and help share the load and talk about wildlife habitat stuff and assist small forest landowners and get a lot of great information from Ken, so a great counterpart to have.

Patrick: Yeah, well, we love Ken on this podcast. I think he was our second or third guest ever. So, if listeners want to go way back. So it's actually maybe high time we have him back on, too. Well, I would like to start with lobbing maybe a little bit of a softball question to both of you – you've kind of dug into it a little bit already. But you know just to elaborate for the listeners, you know, what is the role of a regulation assistance forester, and, maybe more specifically, does this make you regulatory? Do people have to worry that you might get in trouble if you come to their property?

Hollis: Yeah, I'll take this one. So, regulation assistance foresters are here to help landowners navigate what can be a fairly onerous-feeling process. Most small landowners are going to put in maybe one timber harvest permit in their entire life, and the prospect of filling one out and getting all of your permits or needed documents in a row can feel pretty daunting. And so, what we do is as subject matter experts in the rules help folks navigate through what permit they need, what class of permit, what additional addendums they might need to supplement their permit, make sure they answer all the questions correctly and understand what they mean, as well as have a map that explains their process and includes all of the exact standards that they need. So, we primarily work to help folks get a Forest Practices Application, but in addition to that, we help folks by acting as a liaison between them and the Forest Practices Office from time to time.

We might help them in developing alternate plans so that they can apply a unique plan for their forest that might not normally follow all of the same rules, as well as developing like forest practices hydraulic plans for forest practice hydraulic projects, so putting in bridges and stream crossing culverts and things.

Kevin: Hollis, you mentioned a timber harvest permit, also known as the Forest Practices Application. Let's talk a little bit more about that and let's start with maybe the easier question of when do you not need a permit? What can landowners just go out and do without having to worry about a permit?

Hollis: So yeah, that's a great question. There are a number of activities that can be done without an approved Forest Practices Application that are still under DNR's jurisdiction. The most common ones are something like harvesting firewood from your forest for personal use. So there's an allowance of up to 5,000 board feet per 12 months for personal use, whether it's firewood, split rails, that sort of thing. But you can also do all of your standard road maintenance, where you're rocking your roads, brushing the roadside, vegetation, etc. You can build a single landing up to an acre, all this sort of thing. Keep in mind that if you have to harvest timber in order to do that, um the timber harvest would need a different class of Forest Practices Application. Most of the time it's primarily maintaining what you have or small impacts to the ground, and if there are specific questions about it, we can always answer those with a simple phone call or email.

Kevin: Hollis, can you tell us about the 5,000 board feet for personal use rule? I get that question a lot.

Hollis: Yeah, so, I think one of the first questions is, how much is that? What does that mean? How many trees is that, and the hard part is, it depends. If you have a really big tree, you can hit 5,000 board feet in just a few trees, but if you're dealing with 8-inch trees, you can get quite a few of them ah before you hit that 5,000-board-foot limit. Roughly, it's one to one and a half log truck loads. That's the rule of thumb that I share with folks. And after you cut it, you can't sell it, trade it, or barter it. So, for example, if you had a couple of trees that you wanted taken down, and the logger is going to cut the trees and then take the wood as payment for his service that would require a Forest Practices Application because those are being bartered for other goods or services.

Kevin: And how about firewood? If you just want to sell it for firewood, does that still require a permit as well?

Hollis: If you're going to be selling it, yes. If you're going to give it away, no, but, if you're going to be selling firewood, it does require a permit.

Kevin: So, let's talk now about other cases where you do need a permit, like doing timber harvest, and I understand there are some different classes of Forest Practices Applications.

Hollis: Yeah, it can get really technical real fast about what kind of activity falls into what class, but the basic Class One, is those activities that have a very low to no impact on public resources, and they do not require an approved Forest Practices Application. Class Two have a low impact, three have a medium impact but it's typically mitigated, and then Four General is a conversion from forest land to non-forest land, and Four Special is something that would potentially have a high impact on resources and that activity would need to be mitigated. The short answer is if you're going to be harvesting timber and it's going to be sold to anybody, even if it's just one tree, you almost always need an approved Forest Practices Application.

Patrick: Thanks, Hollis. Yeah, that that simplifies that, and that's a big part of your job, right, is simplifying some pretty complex rules? I wonder if we can move over now to specifically stream buffers, because that is I think one of the main situations that a forest owner will face whether they have a very small seasonal stream or even a large, you know, navigable waterway adjacent to or within their property. That certainly complicates things when they're trying to fill out an FPA and do some sort of harvest. Brent, if you want to take this one, can talk a little bit about stream types and buffer requirements and how those fit into this?

Brent: Yeah, absolutely. It's always a question for landowners that have streams going through their property of, you know, what type of stream do I have? Is there fish? Is there not fish? Does it flow water year round? Within the forest practices board manual, they define stream types as four different ways. And the first and most important way is Type S, which is a shoreline in the state, and those are going to be your major bodies of water, like the Columbia River, the Cowlitz River, and some of the main tributaries of those rivers. The rivers that flow into those are going to be your Type F waters. And those are going to have fish. The fish might not be there year-round. They might show up just for a few weeks or a month. The streams don't have to run water all year round to be Type F. The basic form of a Type F water on the westside of Washington is a stream that is under 16% in gradient and it has a two-foot bankfull width. So basically, if you meet those requirements, there's a good chance that you have fish coming up into that stream and you need to buffer it. If there's not fish getting into your stream you either have an N or an NS and an N means it's a perennial water – flows water year round with no fish presence and an NS will be a non-fish water that only flows water seasonally. The buffer requirements on all those are different and you can change if you have a 20 acre exempt or if you're on the Eastside and you have the bull trout layer, you also have different requirements for your buffer. So just kind of is a case-by-case basis and depends on what you want to do around your stream. But it's always – always a good idea to contact Hollis or I or a Forest Practice Forester as you're laying out your FPA.

Patrick: Yeah, I agree. It sounds like you've already spoken to quite a few complexities. I think one of the key takeaways from what you just said is whether or not you have a fish stream is not necessarily related to whether or not you've seen fish in that stream, and that's probably a really important distinction for further people listening to take away from that because it's about fish potential. Am I reading that right?

Brent: Yes, absolutely right. Oftentimes it's hard in springtime – we get those high flows and the water gets a little murky, and that's oftentimes when the steelhead, one of our endangered species in the Pacific Northwest. They swim up and spawn in the springtime, so, oftentimes it's hard to see them in there when that water becomes murky.

Patrick: Yeah, and you mentioned just briefly the 20 acre exemption. Can you elaborate on that a little bit?

Brent: Yeah, I'll actually toss that one to Hollis.

Hollis: Yeah, I'll start off by saying that stream buffer widths vary primarily by your site class – how productive the ground is for growing trees. And they might vary between 90 and 200 feet on the west side of the state and 75 to 130 feet on the east side of the state. So, those can be fairly onerous, um especially if you have smaller properties, and so in recognition of the impact to small landowners, the legislature created an essentially like a carve out for um particularly small landowners, folks who have 20 acres or less of contiguous ownership so that their buffers are reduced. They still vary depending on the size of the stream, but they could be as small as 29 feet and as wide as 115 feet to help reduce the financial burden of regulation on small landowners. One other quick note within these buffers – they're technically called Riparian Management Zones, so, streamside management zones, and within each RMZ, there are three zones. There's a Core Zone, which is that innermost 50 feet – it's most valuable for habitat protection. Then an Inner Zone between the Core Zone and what's called the Outer Zone. The inner zone and outer zone can be managed, meaning that some of the trees can be removed to still protect the streamside habitat, but recover some of the value that comes out of it.

Patrick: Thanks, Hollis. I wonder if we can take a step back too, because you mentioned that it's tied to site productivity, the width of the buffer. um Can you explain why that would be? What's the connection there?

Hollis: Yeah, it ties into um the values that the streamside forest has for the stream, so I'll defer to Brent to kind of talk about ah the habitat benefits for these riparian forests.

Brent: Yeah, so the site classes is valued on how tall your tree can get. So, essentially, if your tree can get to 100 feet, then you want your buffer to be out 100 feet, because if that tree falls over, it can impact the stream, fall in the stream, and the large woody debris aspect of streams is largely important to salmonid species – it will create a lot of different diversities within your river. Oftentimes, like behind a large chunk of woody debris in the stream, there'll either be a pool and then coming up off of that pool, the gravels will come back up and oftentimes you'll find fish spawning in those those areas behind large woody debris. And if you get a large pile of wooded debris, it'll create a pool and it'll have lots of sticks and large logs inside there. So, it's a great. shaded resting area for fish. They can kind of hang out in that pool with cooler water and shaded areas in the summertime. So that diversity that the large woody debris adds to a stream is a vital to salmonid species.

Kevin: Let's talk a little bit about wetlands. Do they have similar buffering requirements that streams do?

Brent: Yes, the one thing with your wetland buffers is you don't have to make them continuous. So, let's say if you ever had like a 40-foot buffer all the way around your stream and you wanted to come in to 20 foot on one side; on the other side you have to go out to 60 foot. So you have to have an overall buffered area around your wetland

Hollis: I'm going to try and give my answer to this question to try and simplify it. So, there are three types of wetlands. There's Forested Wetland, and then two types of non-forested wetland, Type A and Type B. Type A has a open water component of at least a half acre. And then type B is those non-forested wetlands that don't have that open water component. So, it's dominated not by open water, but instead by what they call emergent vegetation, so, shrubs and grasses, et cetera, but trees aren't growing.

Both A and B wetlands, um you're not allowed to harvest within them, but ah forested wetlands you are allowed to harvest. um You just have to make sure you are not impacting the wetland such that it wouldn't continue to grow trees and be productive in the future. These wetlands receive additional protection if you also have fish present. So, if there are fish that use the wetland for habitat, whatever buffers or rules are more protective, whether it's the RMZ rules or the Wetland Management Zone or WMZ rules, the most protective rules get applied.

Kevin: I can see how this is very situation dependent, and this really highlights the importance of landowners reaching out to folks like you or forest practices foresters to get individualized advice about their particular situation and how to apply these. Can you tell me a little bit about the theory behind wetland buffers? We talked about the width of streamside buffers being based on how far away a tree would be that could fall and provide coarse woody debris into the stream? What are some of the purposes of those wetland buffers?

Brent: Wetlands are a very important part of our landscape. They help control floods, they absorb lots of carbon, and they increase our water quality as well as our water quantity. We want to keep those wetlands buffered to keep pollutants out and keep sediments from coming in. One of the terms that they use in the forest practice world is keep the brown stuff out of the wet stuff. We don't we don't want a whole lot of sediment coming in and silting in those wetlands. We want to keep them functioning the way they are and keep them keep them in their proper state. That way they can help control floods and absorb carbon and be a good habitat.

Patrick: Hearing all of these different situations and different rules, I'm imagining it doesn't just stop at wetlands and streams. Would either of you be able to speak to other regulations that are not necessarily caught into riparian zones, and riparian management, whether that has to do with harvest or habitat?

Hollis: There are a fair number of rules and regulations that really stem from protection of these public resources, primarily streams for fish habitat, but extend beyond what people think of when they think of stream protections. One of them is there's essentially a maximum clear-cut size in Washington state, and that's to try and disperse the impact of clear cuts on runoff and etc. And the maximum for Washington State is a hard cap at 240 acres, but anything over 120 acres essentially has to have special permission from the department. It gets an additional review and is allowed only if we say it's allowed. And

that's not up to me, but to the forest practices or regulatory forester who makes those decisions for your area.

Another restriction that you'll come across is particularly if you live on an island. We are lucky in this state to have many beautiful wooded islands, and many of them are covered in actively managed forests. But because islands are so valuable and unique habitats, they have additional restrictions. So on islands, the biggest restriction is that there's a maximum of 40 acres of clear cut that you can have. So, you can't have anything over 40 acres. And then the rest are essentially restrictions based on the shoreline component of island life. So, essentially anywhere within 200 feet of the ocean can only be managed through thinning of no more than 30% in any ten-year period. So, you can still manage within that 200 feet provided you're using the Riparian Management Zone rules and following those rules. um But in addition to those rules, you can only harvest up to 30% within a ten-year period.

Another component of our rules is that we have requirements for leaving trees, even post-harvest. Even in clear cuts you got to leave trees for green tree retention, which is essentially seed trees for the area to help maintain some genetic diversity of what's already there as well as wildlife reserve trees which are beneficial to that any wildlife that is still going to occupy the area. Wildlife are transient through the landscape, yet they can benefit from even a few trees left on the landscape. So, there's a requirement of three green recruitment trees and four wildlife reserve trees um per acre. And those can be either spread across the landscape or clumped up. ah Many times you'll find them aggregated within Riparian Management Zones, but you can't have any spot within your harvest that is more than 800 feet from a wildlife reserve tree or green recruitment tree post-harvest.

Patrick: Our listeners are mostly small forest owners, so obviously this applies to them, but these rules apply to all types of land ownerships, right? Yeah know, whether that's industry, does it also apply to public lands like county lands or state lands?

Hollis: Yeah, it applies to all forest lands in the state that aren't managed under federal jurisdiction. So, any federal lands, Forest Service, National Parks, BLM – those are all under federal rules. If they are under state jurisdiction, they're under the forest practice rules. And so it's industrial forest landowners as well as ah Washington State Department of Natural Resources. We are a land manager under our state lands program, as well as counties, cities and individuals.

Patrick: Yeah, thanks for clarifying that, because we just hadn't really covered that at the beginning, and that explains for folks too, while at state lands, they'll see those same buffers and the same recruitment or eave trees that you were talking about, which I want to follow up on real quickly too. You said there's a difference between green recruitment trees and wildlife reserve trees. What is that difference?

Hollis: Green recruitment trees are healthy living trees that are left on the landscape for their future habitat value. The way it's defined in the laws, they are left after harvest for the purpose of becoming future wildlife reserve trees. And those wildlife reserve trees can be live, but they can also be dead, damaged, dying, or defective trees that have the potential to provide habitat for wildlife species dependent on standing trees. So, they can just have a deformity, they can have a broken top, they can have a split. I've even seen some that are high stumped, so they leave them about 30 to 40 feet high and cut off the rest because all of these trees become unique habitat features for the landscape that if you don't leave them and you just clear the forest um It'll take a very, very long time for the forest that's growing up behind to start recruiting these features into it so we retain them in order to leave that diversity of habitat on the landscape.

Kevin: So far, we've talked about state rules. One of the questions I get a lot is, well, how do state rules interact with county rules or city rules if you're within city limits? Can you talk about some of the complexities of overlapping rules and regulations from different jurisdictions?

Hollis: So, I'm going to give you the short answer first and that is call us and talk to us directly about your specific situation because it's always a little bit different. The long answer is it depends on where you are and what your activity is. If you are conducting a forest practices activity, then there's a really good chance that even if you're within city limits, you're going to be under DNR's jurisdiction. However, if you are working in an area that is adjacent to homes, structures, permanently occupied buildings and things, you're going to be under what the DNR considers converted land. We aren't in the business of regulating backyards, we're in the business of regulating forest land. So, if you're around or adjacent to those permanent structures, there's a good chance the DNR will not consider that forest land and will instead defer to the local governmental entity, so a city or county. But if you're on forest land, even if it's within city limits or an urban growth area, there's a very good possibility that DNR still has jurisdiction.

Kevin: Where do you county critical areas fit into all this?

Hollis: The primary interaction is where you have development taking place and you're going to be converting forest land to non-forest land typically for building a home or if you're clearing for a pasture or orchard. As soon as you are moving from forest land to non-forest land, you start moving into this mixed jurisdictional space and you have to follow essentially both rules. So, you first go to the county and say, "Hey, I am looking to clear this area. It's going to move out of forest land." And you need to obtain from them a clearing and grading permit, as well as the SEPA determination. So, you'll fill out a State Environmental Protection Act checklist with them. They will determine the impact of your proposed activities and give you a determination, and then you take those two documents and bring them to the Department of Natural Resources along with a Forest Practices Application. Then our rules also apply.

Kevin: One of the themes that we've heard regularly today in this episode is the need to reach out directly to you guys and other specialists at the Department of Natural Resources for individual assistance. So, where do people go? How do they get a hold of you? Where can they find more information? Force practices illustrated, for instance, is a great resource, so where do people find these resources?

Brent: I would say one of the best resources that the DNR has is to go to the website, and if you type in, "find your forester," you will find a map and you can type in your address, and it'll pop up all of the foresters in that area. You'll get the wildlife biologist, Ken Bevis. You'll get your local forest practice forester who will approve your Forest Practice Application, and you'll get your Regulation Assistance Forester, which in the Northwest of the state, that'll be Hollis. In other areas of the state, there's other Regulation Assistance Foresters, and there's also the Service Forestry part of the DNR. So you'll get all the information you need on that website.

Hollis: Brent mentioned our service forestry program. I'll give them a plug too. They deal with essentially all the non-commercial activities – anything that really doesn't require a permit, and they can assist with technical expertise as well as helping connect landowners to cost share programs to help defray the cost of management on your forest.

Kevin: Can you tell us again the website where we find the Find Your Forester tool?

Hollis: Yeah, the website is dnr.wa.gov, ut if you Google, find your Forester, W-A-D-N-R, it'll pop right up as the first result.

Kevin: Got it. Well, gentlemen, thank you very much. This has been very informative, and I know our listeners will appreciate having some of the mystery around forced practices rules a little bit demystified now and hopefully better understood, and more importantly, that people know where they can go for help and more information.

To all you listeners, thanks for being with us for this episode. We look forward to you joining us for the next episode of the Forest Overstory Podcast.