

WAC 222-20-040 *Approval conditions. (1) **Whenever an approved** application authorizes a forest practices activity which, because of soil condition, proximity to a water course or other unusual factor, has a potential for causing material damage to a public resource, as determined by the department, the applicant shall, when required as a condition on the approved application, notify the department two business days before the commencement of actual operations.

(2) **All approvals are** subject to any conditions stipulated on the approved application and to any subsequent additional requirements set forth in a stop work order or a notice to comply.

(3) **Local governmental entity conditions—Class IV-general applications.**

(a) RCW 76.09.240(6) allows a local governmental entity to exercise limited land use planning or zoning authority on certain types of forest practices. This subsection is designed to ensure that local governmental entities exercise this authority consistent with chapter 76.09 RCW and the rules in Title 222 WAC. The system provided for in this subsection is optional.

(b) This subsection only applies to applications on lands that are being converted to a use other than commercial timber operations.

(c) After determining that an application is Class IV-general, the department shall transmit the applications to the appropriate local governmental entity within two business days from the date the department officially receives the application.

(d) The department shall condition the application consistent with the request of the local governmental entity if:

(i) The local governmental entity has adopted a clearing and/or grading ordinance that addresses the items listed in (e) of this subsection and requires a permit;

(ii) The local governmental entity has issued a permit under the ordinance in (i) that contains the requested conditions; and

(iii) The local governmental entity has entered into an inter-agency agreement with the department consistent with WAC 222-50-030 addressing enforcement of forest practices.

(e) The local governmental entity conditions may only cover:

(i) The location and character of open space and/or vegetative buffers;

(ii) The location and design of roads;

(iii) The retention of trees for bank stabilization, erosion prevention, and/or stormwater management; or

(iv) The protection of critical areas designated pursuant to chapter 36.70A RCW.

(f) The local governmental entity shall file its conditions with the department within twenty-nine days of the department's official receipt of the application or within fourteen business days of the transmittal of the application to the local governmental entity or one day before the department acts on the application, whichever is later.

(g) The department shall incorporate local governmental entity conditions consistent with this subsection as conditions of the forest practices approval.

(h) Any exercise of local governmental entity authority consistent with this subsection shall be considered consistent with the forest practices rules in this chapter.

(4) **Lead agency mitigation measures.**

(a) This subsection is designed to specify procedures for a mitigated DNS process that are consistent with chapters 76.09 and 43.21C RCW and the rules in Title 222 WAC and chapter 197-11 WAC.

(b) This subsection applies to all Class IV applications in which the department is not the lead agency under the State Environmental Policy Act. (See WAC 197-11-758.)

(c) The department shall transmit the application to the lead agency within two business days from the date the department officially receives the application.

(d) The lead agency may specify mitigation measures pursuant to WAC 197-11-350.

(e) The lead agency threshold determination and any mitigation measures must be filed with the department within the later of twenty-nine days of the official receipt of the application by the department, fourteen business days of the transmittal of the application to the lead agency if the lead agency is a local governmental entity; or one day before the department acts on the application.

(f) Unless the applicant clarifies or changes the application to include mitigation measures specified by the lead agency, the department must disapprove the application or require an environmental impact statement. (See WAC 197-11-738.)

(g) If the department does not receive a threshold determination from the lead agency by the time it must act on the application, the department shall disapprove the application.

(5) **Small forest landowner approval conditions.** The department shall not disapprove a small forest landowner's application or notification on the basis that fish passage barriers have not been removed or replaced if the landowner has committed to participate in the department's family forest fish passage program for:

(a) Any barriers on their forest roads located within the boundaries of their application or notification; and

(b) Any barriers on their forest roads needed for their proposed forest practice, but located outside the boundaries of the application or notification.

(6) **CRGNSA special management area.**

(a) **Policy.** The states of Oregon and Washington have entered into a Compact preauthorized by Congress to implement the CRGNSA Act, 16 U.S.C. §§ 544, et seq. chapter 43.97 RCW, 16 U.S.C. § 544c. The purposes of the CRGNSA Act are:

(i) To establish a national scenic area to protect and provide for the enhancement of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge; and

(ii) To protect and support the economy of the Columbia River Gorge area by encouraging growth to occur in existing urban areas and by allowing future economic development in a manner that is consistent with paragraph (1). 16 U.S.C. § 544a.

The forest practices rules addressing forest practices in the CRGNSA special management area recognize the intent of Congress and the states expressed in the CRGNSA Act and Compact and the intent of the Washington state legislature in the Forest Practices Act. These rules are designed to recognize the public interest in sound natural resource protection provided by the Act and the Compact, including the protection to public resources, recreation, and scenic beauty. These rules are designed to achieve a comprehensive system of laws and rules for forest practices in the CRGNSA special management area which avoids unnecessary duplication, provides for interagency input and intergovernmental and tribal coordination and cooperation, considers

reasonable land use planning goals contained in the CRGNSA management plan, and fosters cooperation among public resources managers, forest landowners, tribes and the citizens.

(b) The CRGNSA special management area guidelines shall apply to all forest practices within the CRGNSA special management area. Other forest practices rules also apply to these forest practices. To the extent these other rules are inconsistent with the guidelines, the more restrictive requirement controls. To the extent there is an incompatibility between the guidelines and another rule, the guidelines control. Copies of the guidelines can be obtained from the department's Southeast and Pacific Cascade regional offices and Olympia office, as well as from the Columbia River Gorge commission and the U.S. Forest Service.

(c) The department shall review and consider the U.S. Forest Service review statement and shall consult with the U.S. Forest Service and the Columbia River Gorge commission prior to making any determination on conditioning an application or notification within the CRGNSA special management area.

[Statutory Authority: RCW 76.09.040(3). WSR 13-21-032, § 222-20-040, filed 10/8/13, effective 12/30/13. Statutory Authority: RCW 76.09.040 and 76.09.370. WSR 13-01-007, § 222-20-040, filed 12/6/12, effective 1/6/13. Statutory Authority: RCW 76.09.040, 76.09.010 (2)(d). WSR 07-20-044, § 222-20-040, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 76.09.040. WSR 06-11-112, § 222-20-040, filed 5/18/06, effective 6/18/06; WSR 05-12-119, § 222-20-040, filed 5/31/05, effective 7/1/05. Statutory Authority: Chapter 34.05 RCW, RCW 76.09.040, [76.09.]050, [76.09.]370, 76.13.120(9). WSR 01-12-042, § 222-20-040, filed 5/30/01, effective 7/1/01. Statutory Authority: RCW 76.09.040 and chapter 34.05 RCW. WSR 98-07-047, § 222-20-040, filed 3/13/98, effective 5/1/98. Statutory Authority: RCW 76.09.040, 76.09.050 and 34.05.350. WSR 91-23-052, § 222-20-040, filed 11/15/91, effective 12/16/91. Statutory Authority: RCW 76.09.040. WSR 87-23-036 (Order 535), § 222-20-040, filed 11/16/87, effective 1/1/88; Order 263, § 222-20-040, filed 6/16/76.]