

Title 222 WAC

FOREST PRACTICES BOARD

Chapters

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Reviser's note: Title 222A WAC, being the 1975 Interim Forest Practices rules and regulations, was promulgated by the Department of Natural Resources pursuant to chapters 34.04 and 76.09 RCW and the Forest Practices Act of 1974 as amended. The rules and regulations, Title 222A WAC, were filed in the office of the Code Reviser by Emergency Order 225, filed December 31, 1974; Permanent Order 226, filed February 28, 1975; Emergency Order 236, filed July 23, 1975; Emergency and Permanent Order 247, filed October 10, 1975; and Emergency Order 248, filed October 20, 1975. These rules and regulations were repealed by the Department of Natural Resources by Order 273, filed 2/22/77 and the rules and regulations promulgated by the Forest Practices Board are hereby published as Title 222 WAC.

Chapter 222-08 WAC PRACTICES AND PROCEDURES

WAC

222-08-010	Appeals.
222-08-020	Orientation and training.
222-08-030	Reporting procedures.

WAC 222-08-010 Appeals. All appeals from actions regarding forest practices shall be in accordance with RCW 76.09.210, RCW 76.09.220 and RCW 76.09.230. [Order 263, § 222-08-010, filed 6/16/76.]

WAC 222-08-020 Orientation and training. The Department shall be responsible for a continuing program of orientation and training, relating to forest practices and regulation thereof, pursuant to RCW 76.09.250. Such program shall include:

(1) **Investigation of current** developments in and practical applications of forest resources and related technology.

(2) **Continuing training of** Department personnel in the current status of forest resources technology and related disciplines.

(3) **Dissemination of information** on current forest practice technology to the public, in a manner determined by the Department to be effective. [Order 263, § 222-08-020, filed 6/16/76.]

WAC 222-08-030 Reporting procedures. The Department shall:

(1) **Survey and identify** all silviculturally related non-point sources of pollution and related control programs in the State,

(2) **Prepare an analysis** of the above activities and programs, and

(3) **Report and recommend** to the Forest Practices Advisory Committee, the Forest Practices Board and to the Governor additional rules and regulations, procedures and/or methods necessary for the control of such sources to the extent feasible. [Order 263, § 222-08-030, filed 6/16/76.]

Chapter 222-10 WAC STATE ENVIRONMENTAL POLICY ACT GUIDELINES

WAC

222-10-010	Policies and authorities.
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222-10-070	Additional definitions.
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222-10-110	Board's SEPA public information center.
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WAC 222-10-010 Policies and authorities. (1) This chapter is promulgated pursuant to the authority granted in RCW 43.21C.110 and chapter 197-10 WAC.

(2) The Forest Practices Board, according to RCW 76.09.04, possesses the authority to promulgate forest practices regulations establishing minimum standards for forest practices and setting forth necessary administrative provisions. [Order 258, § 222-10-010, filed 5/21/76.]

WAC 222-10-050 Adoption by reference. Except to those rules that may not be applicable, the Forest Practices Board hereby adopts by reference chapter 197-10 WAC, the "SEPA Guidelines" adopted by the State of Washington Council on Environmental Policy. [Order 258, § 222-10-050, filed 5/21/76.]

WAC 222-10-070 Additional definitions. In addition to those definitions contained within WAC 197-10-040, the following terms shall have the following meanings:

(1) "Board" means the Forest Practices Board, as defined by RCW 76.09.

(2) "SEPA Guidelines" means chapter 197-10 WAC adopted by the Council on Environmental Policy. [Order 258, § 222-10-070, filed 5/21/76.]

WAC 222-10-090 Designation of responsible official. The Board shall act as the responsible official for the purpose of complying with the SEPA Guidelines, or the Board may designate the chairperson of the Forest Practices Board or his/her designee to serve as such responsible official. [Order 258, § 222-10-090, filed 5/21/76.]

WAC 222-10-110 Board's SEPA public information center. There is hereby established in the Public Lands Building, 2nd Floor, Olympia, Washington, the Board's SEPA Public Information Center. [Order 258, § 222-10-110, filed 5/21/76.]

WAC 222-10-120 Exemption from emergency actions. The Board may promulgate rules which must be promulgated immediately, or within a time too short to allow full compliance with this chapter of the SEPA Guidelines where such action is required to avoid an imminent threat to public health or safety, to prevent imminent danger to public or private property or prevent imminent threat of serious environmental degradation without complying with the procedural requirements of this chapter of the SEPA Guidelines. [Order 258, § 222-10-120, filed 5/21/76.]

WAC 222-10-130 Lead agency, agency with jurisdiction, consulted agency. The Board shall be considered the lead agency, consulted agency or an agency with jurisdiction only when the action considered is the action of promulgating rules under chapter 76.09 RCW. [Order 258, § 222-10-130, filed 5/21/76.]

Chapter 222-12 WAC POLICY AND ORGANIZATION

WAC	
222-12-010	Authority.
222-12-020	Regulation sections.
222-12-030	Classes of forest practices.
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222-12-060	Supplemental directives.
222-12-070	Enforcement policy.
222-12-080	Administrative and judicial appeals.
222-12-090	Forest practices board manual.

WAC 222-12-010 Authority. These Forest Practices Regulations are adopted pursuant to chapter 76.09 RCW. Where necessary to accomplish the purposes and policies stated in the Act, the Board is authorized to promulgate Forest Practices Regulations establishing minimum standards for forest practices and setting forth necessary administrative provisions, pursuant to chapter 34.04 RCW and in accordance with the procedures enumerated in the Act.

Promulgation of all Forest Practices Regulations shall be accomplished so that compliance with such Forest

Practices Regulations will achieve compliance with the water quality laws.

Those Regulations marked with an asterisk (*) pertain to water quality protection; pursuant to RCW 76.09.040 they will also be adopted by the Department of Ecology and can be amended only by agreement between the Board and the Department of Ecology.

Forest Practices Regulations shall be administered and enforced by the Department except as otherwise provided in the Act. Such Regulations shall be administered so as to give consideration to all purposes and policies set forth in RCW 76.09.010. [Order 263, § 222-12-010, filed 6/16/76.]

WAC 222-12-020 Regulation sections. These Regulations are organized as follows:

Section I – Practices and Procedures;

Section II – Policy and Organization;

Section III – Definitions;

Section IV – Application and Notification Procedures;

Section V – Road Construction and Maintenance;

Section VI – Timber Harvesting;

Section VII – Reforestation;

Section VIII – Forest Chemicals;

Section IX – Supplemental Directives;

Section X – Enforcement;

Section XI – Relationship To Other Laws and Regulations. [Order 263, § 222-12-020, filed 6/16/76.]

WAC 222-12-030 Classes of forest practices. Forest Practices are divided into four (4) classes as specified by RCW 76.09.050. In certain emergencies, as defined in RCW 76.09.060(7), the application or notification may be submitted within forty-eight (48) hours after commencement of the practice.

(1) **Class I Forest Practices** require no application or notification, but do require compliance with all other Forest Practices Regulations.

(2) **Class II Forest Practices** require a notification to the Department, and may begin five (5) calendar days (or such lesser time as the Department may determine) after receipt by the Department of the notification.

(3) **Class III Forest Practices** require an application which must be approved or disapproved within fourteen (14) calendar days of receipt by the Department.

(4) **Class IV Forest Practices** are divided into "Class IV – Special," and "Class IV – General," and require an application to the Department which must be approved or disapproved within thirty (30) calendar days, except that "Class IV – Special" requires an evaluation be made by the Department as to whether a detailed environmental statement is necessary. Where a "Class IV – Special" would require a detailed environmental statement, additional time for approval or disapproval as specified in RCW 76.09.050 will be required. [Order 263, § 222-12-030, filed 6/16/76.]

WAC 222-12-040 Alternate plans. All forest practice operations must comply with the Act and further with the Rules and Regulations promulgated pursuant to the Act, unless an alternate plan has been approved by the Department. Applicants may propose an alternate

plan for any or all of the activities described in the application. An alternate plan is a plan proposed by the applicant when compliance with the purposes and policies of the Act can be achieved as well or better through a variance from the Regulations rather than through application of the specific provisions of chapters 222-24 through 222-38 WAC. [Order 263, § 222-12-040, filed 6/16/76.]

WAC 222-12-050 Notices to comply—Stop work orders. (1) **Violations.** When a forest practice has been completed, the Department may issue a Notice to Comply requiring the operator or landowner to correct or compensate for damage to public resources where there was:

(a) A violation of the Act, or these rules and regulations, or

(b) A deviation from the approved application, or

(c) A wilful or negligent disregard for potential damage to a public resource.

(2) **Other Required Action.** When a forest practice has not yet been completed, the Department may issue either a Notice to Comply to the operator and/or landowner, or a Stop Work Order to the operator, requiring him to prevent potential or continuing damage to a public resource where:

(a) The need for additional actions or restrictions has become evident, and

(b) The Department determines that a specific course of action is needed to prevent potential or continuing damage to public resources, and

(c) The damage would result or is resulting from the forest practices activities, whether or not the activities involve any violation, unauthorized deviation or negligence.

(3) **No Notice to Comply** shall be issued to require a person to prevent, correct, or compensate for any damage to public resources which occurs more than one (1) year after the date of completion of the forest practices operations involved exclusive of reforestation, unless such forest practices were not conducted in accordance with Forest Practices Rules and Regulations: *Provided*, That this provision shall not relieve the forest landowner from any obligation to comply with Forest Practices Rules and Regulations pertaining to providing continuing road maintenance.

(4) **No Notice to Comply** to recover money damages shall be issued more than two (2) years after the date the damage involved occurs.

(5) **In emergency action**, where the Department requires the operator or landowner to do immediate work in the bed of the stream the Department shall first seek approval from the Departments of Fisheries and Game. [Order 263, § 222-12-050, filed 6/16/76.]

WAC 222-12-060 Supplemental directives. Supplemental Directives are advisory directives and are issued to forest landowners, timber owners and operators conducting forest practices, recommending an alternate preferred course of action or a minor change in the operation, which the Department believes would provide greater assurance that the purposes and policies set forth

in RCW 76.09.010 will be met. [Order 263, § 222-12-060, filed 6/16/76.]

WAC 222-12-070 Enforcement policy. Procedures for enforcement of these regulations by the Department are provided in chapter 222-46 WAC. Where the Department of Ecology determines that a person has failed to comply with the Forest Practices Regulations relating to water quality protection, and that the Department of Natural Resources has not issued a Stop Work Order or Notice to Comply, the Department of Ecology shall inform the Department thereof in writing. If the Department of Natural Resources fails to take authorized enforcement action within twenty-four (24) hours, under RCW 76.09.080, RCW 76.09.090, RCW 76.09.120 or RCW 76.09.130, the Department of Ecology may petition to the chairman of the Appeals Board, who shall, within forty-eight (48) hours, either deny the petition or direct the Department of Natural Resources to immediately issue a Stop Work Order or a Notice to Comply or impose a penalty. No civil or criminal penalties shall be imposed for past actions or omissions if such actions or omissions were conducted pursuant to an approval or directive of the Department of Natural Resources. [Order 263, § 222-12-070, filed 6/16/76.]

WAC 222-12-080 Administrative and judicial appeals. Forest landowners, timber owners, operators, counties and any aggrieved parties as defined by the Forest Practices Act may appeal to the Forest Practices Appeals Board certain actions and omissions of the Department, including: approval or disapproval of an application; any conditions attached to approval of an application, Notices to Comply, Stop Work Orders, Civil Penalties assessed or Notices of Violation, *Provided*, That no Notices to Comply may be appealed to the Appeals Board unless first appealed to the Department under RCW 76.09.090. The decision of the Appeals Board may be appealed to the Superior Court in accordance with the Administrative Procedures Act, chapter 34.04 RCW. [Order 263, § 222-12-080, filed 6/16/76.]

WAC 222-12-090 Forest practices board manual. When approved by the Board the Manual serves as an advisory technical supplement to these Forest Practices Regulations. The Department, in cooperation with the Departments of Fisheries, Game, Agriculture, Ecology, and such other agencies as may have appropriate expertise, is directed to prepare, and submit to the Board for approval, a Forest Practices Board Manual. The Manual shall include.

(1) **Temperature sensitive determinations** needed for use with WAC 222-16-040.

(2) **Procedures for leaving** the required fifty (50) percent or seventy-five (75) percent shade as required in WAC 222-30-040.

(3) **A list of "key wildlife habitats"** as established under WAC 222-16-010 (23).

(4) **The standard methods** for measuring channel width, stream gradient and flow which are used in the water typing criteria WAC 222-16-030.

(5) A **chart** for establishing recommended permanent culvert sizes and associated data. [Order 263, § 222-12-090, filed 6/16/76.]

Chapter 222-16 WAC DEFINITIONS

WAC

222-16-010	General definitions.
222-16-020	Water categories.
222-16-030	Water typing system.
222-16-040	Temperature sensitive waters.
222-16-050	Classes of forest practices.

WAC 222-16-010 General definitions. Unless otherwise required by context, as used in these regulations:

(1) "**Act**" means the Forest Practices Act, chapter 76.09 RCW.

(2) "**Appeals Board**" means the Forest Practices Appeals Board established in the Act.

(3) "**Board**" means the Forest Practices Board established by the Act.

(4) "**Borrow Pit**" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

(5) "**Chemicals**" means substances applied to forest lands or timber to accomplish specific purposes and includes pesticides, insecticides, rodenticides, plant-growth regulators, fungicides, fertilizers, dessicants, fire retardants when used in controlled burning, repellents, oil, dust-control agents (other than water), salt and other materials that may present hazards to the environment.

(6) "**Commercial Tree Species**" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

(7) "**Completion of Harvest**" means the latest of:

(a) Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas, or

(b) Scheduled completion of any slash disposal operations where the Department and the applicant agree within six (6) months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal, or

(c) Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification, *Provided*, That delay of reforestation under this subsection (c) is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

(8) "**Contamination**" means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or

welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

(9) "**Conversion to a Use Other than Commercial Timber Operation**" shall mean a bona fide conversion to an active use which is incompatible with timber growing.

(10) "**Debris**" means woody vegetative residue less than three (3) cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

(11) "**Department**" means the Department of Natural Resources.

(12) "**End Hauling**" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

(13) "**Erodible Soils**" means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

(14) "**Fertilizers**" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

(15) "**Flood Level - Fifty (50) Year.**" For purposes of field interpretation of these regulations, the fifty (50) year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed two (2) times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the Department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a two (2) percent chance of occurring in any given year. The fifty (50) year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the State, or a political subdivision of the State.

(16) "**Flood Level Twenty-Five (25) Year.**" For purposes of field interpretation of these regulations the twenty-five (25) year flood level shall be considered to be a vertical elevation which is the same height measured from the ordinary high-water mark as the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed two (2) times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the Department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a four (4) percent chance of occurring in any given year. The twenty-five (25) year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the State, or a political subdivision of the State.

(17) "**Forest Land**" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

(18) **"Forest Land Owner"** shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

(19) **"Forest Practice"** means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- (a) Road and trail construction,
- (b) Harvesting, final and intermediate,
- (c) Precommercial thinning,
- (d) Reforestation,
- (e) Fertilization,
- (f) Prevention and suppression of diseases and insects,
- (g) Salvage of trees, and
- (h) Brush control.

"Forest Practice" shall not include: preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

(20) **"Herbicide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

(21) **"Historic Site"** includes:

- (a) Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, State or locality, or
- (b) Places associated with a personality important in history, or
- (c) Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

(22) **"Insecticide"** means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusks.

(23) **"Key Wildlife Habitat"** means the habitat of any threatened or endangered species, as such habitat is established by the Board in the Forest Practices Board Manual, or other situations as identified by the Board, after consultation with the Department of Game, where specific management practices are needed to prevent critical wildlife habitat destruction.

(24) **"Limits of Construction"** means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

(25) **"Load Bearing Portion"** means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

(26) **"Major Tractor Road"** is one which involves extensive sidestepping or similar disturbance of soil which may cause material damage to a public resource or would destroy the integrity of a Streamside Management Zone.

(27) **"Merchantable Stand of Timber"** means a stand of trees that will yield logs and/or fibre:

(a) Suitable in size and quality for the production of lumber, plywood, pulp or other forest products.

(b) Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

(28) **"Notice to Comply"** means a notice issued by the Department pursuant to RCW 76.09.090 of the Act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

(29) **"Operator"** shall mean any person engaging in forest practices except an employee with wages as his sole compensation.

(30) **"Ordinary High-Water Mark"** means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation. *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

(31) **"Partial Cutting"** means the removal of a portion of the merchantable volume in a stand of timber so as to leave a well-distributed stand of residual, healthy trees that will reasonably utilize the productivity of the soil.

(32) **"Pesticide"** means any insecticide, herbicide or rodenticide but does not include nontoxic repellents or other chemicals.

(33) **"Plantable Area"** is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of Streamside Management Zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

(34) **"Power Equipment"** means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

(35) **"Public Resources"** means water, fish, and wildlife and in addition shall mean capital improvements of the State or its political subdivisions.

(36) **"Rehabilitation"** means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

(37) **"Relief Culvert"** means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

(38) **"Rodenticide"** means any substance or mixture of substances intended to prevent, destroy, or mitigate rodents or any other vertebrate animal which the Director

of the State Department of Agriculture may declare by regulation to be a pest.

(39) **"Salvage"** means the removal of snags, down logs, windthrow, or dead and dying material.

(40) **"Scarification"** means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

(41) **"Side Casting"** means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

(42) **"Shorelines of the State"** means all of the water areas of the State, including reservoirs, and their associated wetlands together with the lands underlying them, except:

(a) Shorelines on segments of streams upstream of a point where the mean annual flow is twenty (20) cubic feet per second or less and the wetlands associated with such upstream segments, and

(b) Shorelines on lakes less than twenty (20) acres in size and wetlands associated with such small lakes.

"Wetlands" means those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high-water mark; floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways; and means all marshes, bogs and swamps associated with the streams, lakes and tidal waters which are included in the waters defined as "Shorelines of the State" in these rules.

"Floodway" means those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, such floodway being identified, under normal conditions, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. The floodway shall not include those lands which can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the State, or a political subdivision of the State.

(43) **"Skid Trail"** means a route used by tracked or wheeled skidders to move logs to a landing or road.

(44) **"Slash"** means pieces of woody material containing more than three (3) cubic feet resulting from forest practice activities.

(45) **"Spoil"** means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

(46) **"Stop Work Order"** means the "stop work order" defined in RCW 76.09.080 of the Act and may be issued by the Department to stop violations of the Forest Practices Chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

(47) **"Streamside Management Zone"** means a specified area alongside natural waters where specific attention must be given to the measures, that can be taken to protect water quality. These zones shall be measured from the ordinary high-water mark of the body of water and measure:

(a) Fifty (50) feet in width on each side of a Type 1 and 2 Water.

(b) Twenty-five (25) feet in width on each side of a Type 3 Water.

(48) **"Timber"** shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

(49) **"Water Bar"** means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

(50) **"Weed"** is any plant which tends to overgrow or choke out more desirable vegetation.

(51) **"Windthrow"** means a natural process by which trees are uprooted or sustain severe trunk damage by the wind. [Order 263, § 222-16-010, filed 6/16/76.]

WAC 222-16-020 Water categories. The following types of water are used in these regulations, the system for typing the waters is as set forth in WAC 222-16-030 Water Typing System.

(1) **"Type 1 Water"** means all waters, within their ordinary high-water mark, as inventoried as "Shorelines of the State" under chapter 90.58 RCW.

(2) **"Type 2 Water"** shall mean segments of natural waters which are not classified as Type 1 Water and have a high use and are important from a water quality standpoint for:

(a) Domestic water supplies,

(b) Public recreation,

(c) Fish spawning, rearing, or migration or wildlife uses, or

(d) Are highly significant to protect water quality.

(3) **"Type 3 Water"** shall mean segments of natural waters which are not classified as Type 1 or 2 Water and have a moderate to slight use and are moderately important from a water quality standpoint for:

(a) Domestic use,

(b) Public recreation,

(c) Fish spawning, rearing, or migration or wildlife uses, or

(d) Have moderate value to protect water quality.

(4) **"Type 4 Water"** shall mean segments of natural waters which are not classified as Type 1, 2 or 3. Their significance lies in their influence on water quality downstream in Type 1, 2 and 3 Waters. These may be perennial or intermittent.

(5) **"Type 5 Water"** means all other waters, in natural water courses, including streams with or without a well-defined channel, areas of perennial or intermittent seepage, ponds, and natural sinks. Drainage ways having short periods of spring runoff are considered to be Type 5 Waters. [Order 263, § 222-16-020, filed 6/16/76.]

WAC 222-16-030 Water typing system. The Department in cooperation with the Departments of Fisheries, Game and Ecology shall classify streams, lakes and ponds and prepare stream classification maps showing the location of Type 1, 2, 3 and 4 Waters within the various forested areas of the State. Such maps shall be

available for public inspection at area offices of the Department. The waters will be classified using the following criteria, except that these agencies may approve classifications of water segments which do not follow the criteria when substantiated evidence demonstrates that use of the criteria would result in incorrect classification of such water according to the definitions contained in WAC 222-16-020. When so requested by any affected landowners, applicant or aggrieved person, the Department shall make available informal conferences, which shall include the Departments of Fisheries, Game and Ecology, and those contesting the adopted water types. These conferences shall be established under procedures established in WAC 222-46-020.

(1) **"Type 1 Water"** means all waters, within their ordinary high-water mark, as inventoried as "Shorelines of the State" under chapter 90.58 RCW, but not including those waters' associated wetlands.

(2) **"Type 2 Water"** classification shall be applied to segments of natural waters which:

(a) Are diverted for domestic use by more than one hundred (100) residential or camping units or by a public accommodation facility licensed to serve more than one hundred (100) persons, where such diversion is determined by the Department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type 2 Water upstream from the point of such diversion for one thousand five hundred (1,500) feet or until the drainage area is reduced by fifty (50) percent, whichever is less;

(b) Are within a federal, State, local, or private campground having more than thirty (30) camping units, *Provided*, That the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within one hundred (100) feet of a camping unit, trail or other park improvement;

(c) Are used by substantial numbers of anadromous or resident game fish for spawning, rearing or migration. Waters having the following characteristics are presumed to have highly significant fish populations:

(i) Stream segments having a defined channel twenty (20) feet or greater in width between the ordinary high-water marks and having a gradient of less than four (4) percent.

(ii) Impoundments having a surface area of one (1) acre or greater at seasonal low water.

(3) **"Type 3 Water"** classifications shall be applied to segments of natural waters which:

(a) Are diverted for domestic use by more than ten (10) residential or camping units or by a public accommodation facility licensed to serve more than ten (10) persons, where such diversion is determined by the Department to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type 3 Water upstream from the point of such diversion for one thousand five hundred (1,500) feet or until the drainage area is reduced by fifty (50) percent, whichever is less;

(b) Are used by significant numbers of anadromous fish for spawning, rearing or migration. Waters having

the following characteristics are presumed to have significant anadromous fish use:

(i) Stream segments having a defined channel of five (5) feet or greater in width between the ordinary high-water marks; and having a gradient of less than twelve (12) percent and not upstream of a falls of more than ten (10) vertical feet.

(ii) Impoundments having a surface area of less than one (1) acre at seasonal low water and having an outlet to an anadromous fish stream.

(c) Are used by significant numbers of resident game fish. Waters with the following characteristics are presumed to have significant resident game fish use:

(i) Stream segments having a defined channel of ten (10) feet or greater in width between the ordinary high-water marks; and a summer low flow greater than 0.3 cfs; and a gradient of less than twelve (12) percent.

(ii) Impoundments having a surface area greater than 0.5 acre at seasonal low water.

(d) Are highly significant for protection of downstream water quality. Tributaries which contribute greater than twenty (20) percent of the flow to a Type 1 or 2 Water are presumed to be significant for one thousand five hundred (1,500) feet from their confluence with the Type 1 or 2 Water or until their drainage area is less than fifty (50) percent of their drainage area at the point of confluence, whichever is less.

(4) **"Type 4 Water"** classification shall be applied to segments of natural waters which are not classified as Type 1, 2 or 3, and for the purpose of protecting water quality downstream are classified as Type 4 Water upstream until the channel width becomes less than two (2) feet in width between the ordinary high-water marks.

(5) **"Type 5 Water"** classification shall be applied to all natural waters not classified as Type 1, 2, 3 or 4; areas of perennial or intermittent seepage, ponds and drainageways having short periods of spring or storm runoff.

(6) For purposes of this section:

(a) **"Residential Unit"** means a home, apartment, residential condominium unit or mobile home, serving as the principal place of residence.

(b) **"Camping Unit"** means an area intended and used for:

(i) Overnight camping or picnicking by the public containing at least a fireplace, picnic table and access to water and sanitary facilities, or

(ii) A permanent home or condominium unit or mobile home not qualifying as a "residential unit" because of parttime occupancy.

(c) **"Resident Game Fish"** means game fish as described in the Washington Game Code that spend their life cycle in fresh water. Steelhead, Searun Cutthroat and Dolly Varden Trout are anadromous game fish and should not be confused with resident game fish.

(d) **"Public Accommodation Facility"** means a business establishment open to and licensed to serve the public, such as a restaurant, tavern, motel or hotel.

(e) **"Natural Waters"** only excludes water conveyance systems which are artificially constructed and actively maintained for irrigation.

(f) "Seasonal Low Flow" and "Seasonal Low Water" mean the conditions of the seven-day (7-day), two-year (2-year) low water situation, as measured or estimated by accepted hydrologic techniques recognized by the Department.

(g) Channel width and gradient shall be measured over a representative section of at least five hundred (500) lineal feet with at least ten (10) evenly spaced measurement points along the normal stream channel but excluding unusually wide areas of negligible gradient such as marshy or swampy areas, beaver ponds and impoundments. Channel gradient may be determined utilizing stream profiles plotted from U.S. Geological Survey Topographic maps.

(h) "Intermittent Streams" means those segments of streams that normally go dry. [Order 263, § 222-16-030, filed 6/16/76.]

WAC 222-16-040 Temperature sensitive waters. The waters meeting the following criteria are excluded from the shade requirements specified in WAC 222-30-040 because they are not sensitive to changes in stream temperature. Individual streams excluded by this criteria may be considered sensitive where substantiated data submitted during the application period indicates an unacceptable change in stream temperature will result following shade removal.

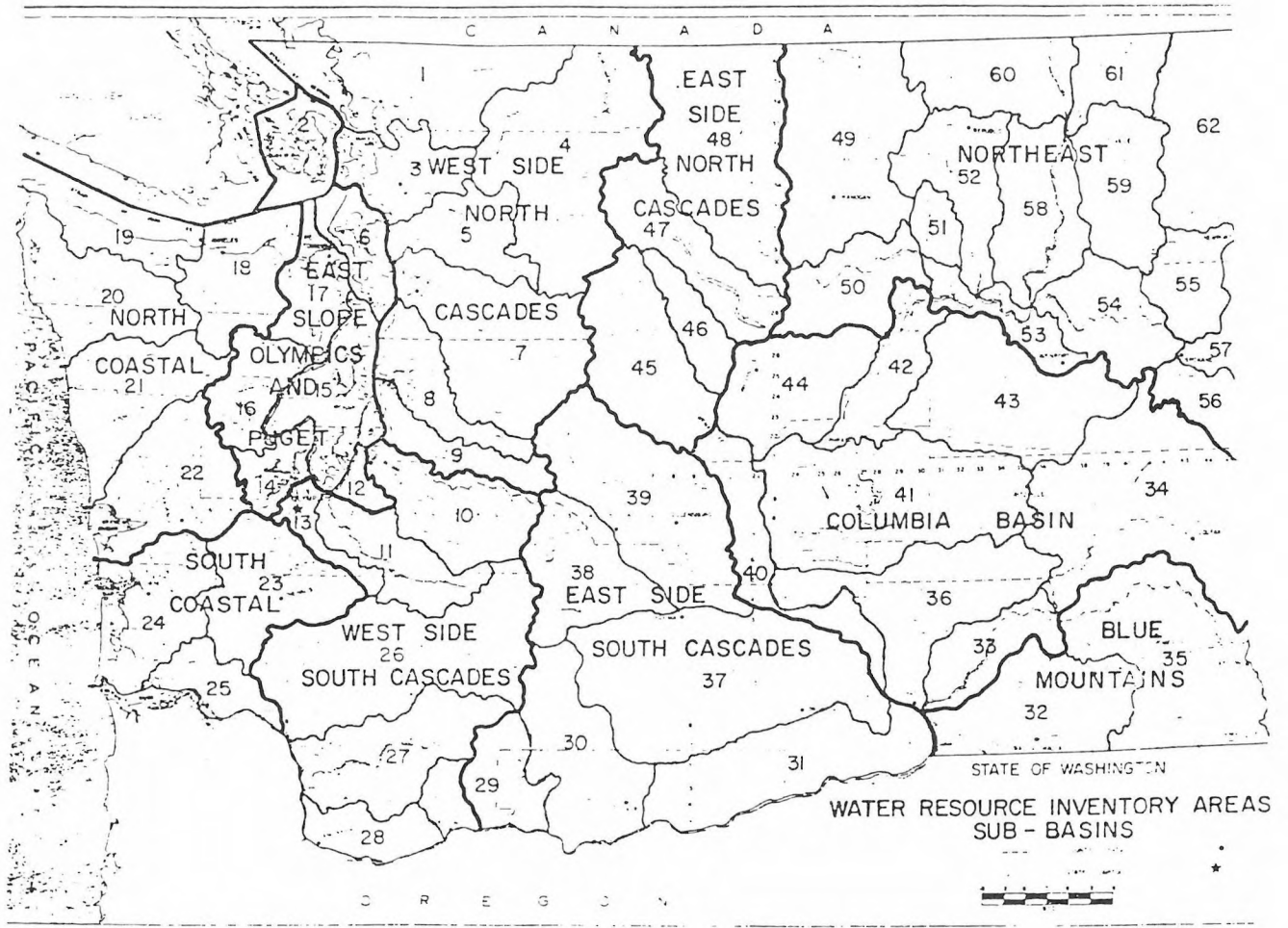
(1) **State criteria.**

- (a) All waters more than seventy-five (75) feet wide.
- (b) Those portions of intermittent waters normally dry by July 1.
- (c) Streams with a minimum flow greater than ten (10) cubic feet per second.
- (d) All Type 4 and 5 Waters.
- (e) Waters oriented east and west with topographic shading.
- (f) The north side of all east – west waters.
- (g) Where the Department acknowledges the area is prone to blowdown.
- (h) Waters waived by Departments of Fisheries and Game with Department of Ecology concurrence.

(2) **Regional Criteria** by Water Resource Inventory Area (WRIA's adopted by the Department of Ecology in WAC 173-500-040).

- (a) West side of North Cascades (WRIA's 1, 3, 4, 5, 7, 8, and 9) exemptions:
 - (i) Streams with a north aspect above 1,500 feet.
 - (ii) All other streams over 2,000 feet.
- (b) West side South Cascades (WRIA's 10, 11, 13, 26, 27, 28, and the west half of 29) exemptions:
 - (i) Streams with a north aspect above 2,000 feet.
 - (ii) All other streams over 2,500 feet.
- (c) East slope Olympics and Puget (WRIA's 2, 6, 12, 14, 15, 16, and 17) exemptions include all streams over 2,000 feet.
- (d) North Coastal (WRIA's 18 – 22) exemptions include all streams over 1,500 feet.
- (e) South Coastal (WRIA's 23 – 25) exemptions include all streams over 2,000 feet.
- (f) East side South Cascades exemptions are as follows:
 - (i) WRIA 30 and the east half of 29 – all streams over 2,500 feet.
 - (ii) WRIA's 31, 37, 38, and 39 – all streams over 2,000 feet.
- (g) East side North Cascades (WRIA's 45, 46, 47, and 48) exemptions: (i) Streams with a north aspect over 1,500 feet.
 - (ii) All streams over 2,000 feet.
- (h) Northeast (WRIA's 49 – 62) has no regional exemptions.
- (i) Blue Mountains (WRIA's 32 and 35) have no regional exemptions.
- (j) Columbia Basin (WRIA's 33, 34, 36, 40 – 44) streams are all exempt.

Water Resource Inventory Areas Sub-Basins



[Order 263, § 222-16-040 WRIA Map, filed 6/16/76.]

WAC 222-16-050 Classes of forest practices. There are four (4) classes of forest practices created by the Act. These classes are listed below in the order most convenient for the applicant's use in determining into which class his operations fall. All forest practices (including those in Classes I and II) must be conducted in accordance with the Forest Practices Regulations.

(1) **"Class IV - Special."** Application to conduct forest practices involving the following circumstances may require submission of additional information as they have been determined to have potential for a substantial impact on the environment. It may be determined that a detailed environmental statement is required before these forest practices may be conducted.

(a) Harvesting, road construction, site preparation or aerial application of pesticides on lands known to contain the nest or breeding grounds of any threatened or endangered species of wildlife as designated by the Department of Game in accordance with federal criteria and procedure, and approved by the Board.

(b) Widespread use of DDT or a similar persistent insecticide.

(c) Harvesting or road construction on landlocked parcels within the boundaries of any national park, state park or any park of a local governmental entity.

(d) Utilization of an alternate plan except those involving field evaluation of a new forest practice technology or any reforestation practice.

(2) **"Class IV - General."** Applications involving the following circumstances are "Class IV - General" forest practices unless they are listed in "Class IV - Special." Such applications will not require an environmental evaluation but are subject to a thirty-day (30-day) period for approval.

(a) Forest practices (other than those in Class I) on lands platted after January 1, 1960, or on lands being converted to another use.

(b) Forest practices which would otherwise be Class III, but which are taking place on lands which are not to be reforested because of likelihood of future conversion to urban development. (See WAC 222-34-050.)

(c) Harvesting, road construction, site preparation, or aerial application of pesticides on lands known to the Department or applicant to contain active nest trees of the American bald eagle or osprey, or archaeological or historic sites.

(3) **"Class I."** Those operations that have been determined to have no direct potential for damaging a public

resource are Class I forest practices. When the conditions listed in "Class IV – Special," or subparagraph (c) of "Class IV – General" are not present, these operations may be commenced without notification or application.

(a) Culture and harvest of Christmas trees and seedlings.

(b) Road maintenance except: (1) replacement of bridges and culverts across Type 1, 2, 3 or flowing Type 4 Waters; or (2) movement of material that has a direct potential for entering Type 1, 2, 3 or flowing Type 4 Waters.

(c) Construction of landings less than one (1) acre in size, if not within a shoreline area of a Type 1 Water, the Streamside Management Zone of a Type 2 or 3 Water, or the ordinary high-water mark of a Type 4 Water.

(d) Construction of less than six hundred (600) feet of road on a sideslope of forty (40) percent or less if the limits of construction are not within the shoreline area of a Type 1 Water, the Streamside Management Zone of a Type 2 or Type 3 Water, or the ordinary high-water mark of a Type 4 Water.

(e) Installation or removal of a portable water crossing structure where such installation does not take place within the shoreline area of a Type 1 Water and does not involve disturbance of the beds or banks of any waters.

(f) Initial installation and replacement of relief culverts and other drainage control facilities not requiring a hydraulics permit.

(g) Rocking an existing road.

(h) Loading and hauling timber from landings or decks.

(i) Pre-commercial thinning and pruning.

(j) Tree planting and seeding.

(k) Removal of less than five thousand (5,000) board feet of timber (including live, dead and down material) for personal use (i.e., firewood, fence posts, etc.) in any twelve-month (12-month) period.

(l) Emergency fire control and suppression.

(m) Slash burning pursuant to a burning permit (RCW 70.94.660).

(n) Other slash control and site preparation not involving either off-road use of tractors on slopes exceeding forty (40) percent or off-road use of tractors within the shorelines of a Type 1 Water, the Streamside Management Zone of any Type 2 or 3 Water, or the ordinary high-water mark of a Type 4 Water.

(o) Ground application of chemicals. (See WAC 222-38-020.)

(p) Aerial application of chemicals (except insecticides) when applied to not more than forty (40) contiguous acres where the application does not take place within one hundred (100) feet of lands used for farming, unless such farmland is owned by the forest landowner. (See WAC 222-38-020.)

(q) Forestry research studies and evaluation tests by an established research organization.

(4) "Class II." Certain forest practices have been determined to have a less than ordinary potential to damage a public resource and may be conducted as Class II

forest practices. *Provided*, That no forest practice enumerated below may be conducted as a Class II forest practice if the operation requires a Hydraulics Project Approval (RCW 79.20.100) or is within a "Shorelines of the State," or involves a bond in lieu of landowners signature (other than renewals). Such forest practices require an application. No forest practice enumerated below may be conducted as a "Class II" forest practice if it takes place on lands platted after January 1, 1960, or on lands being converted to another use. Such forest practices require a Class IV application. Class II forest practices are the following:

(a) Renewal of a prior Class II notification.

(b) Renewal of a previously approved Class III or IV forest practice application where:

(i) No modification of the uncompleted operation is proposed, and

(ii) No Notices to Comply, Stop Work Orders or other enforcement actions are outstanding with respect to the prior application.

(c) Construction of advance fire trails.

(d) Aerial application of chemicals (except insecticides) on more than forty (40) acres but not more than one hundred sixty (160) acres of forest land. Such aerial application shall not take place within one hundred (100) feet of lands used for farming unless such farmland is owned by the forest landowner.

(e) Any of the following, if none of the operation takes place within the Streamside Management Zone of a Type 2 or 3 Water or within the ordinary high-water mark of a Type 4 Water:

(i) Opening a new pit of, or extending an existing pit by, less than one (1) acre.

(ii) The following harvests where not involving off-road use of tractor or wheeled skidding systems:

(aa) Salvage of logging residue.

(bb) Salvage of dead, down or dying timber if less than forty (40) percent of the total timber volume is removed in any twelve-month (12-month) period.

(cc) West of the Cascade Summit, partial cutting of forty (40) percent or less of the live timber volume.

(dd) East of the Cascade Summit, partial cutting of five thousand (5,000) board feet per acre or less.

(ee) Any harvest on less than forty (40) acres.

(f) Any of the following, if none of the operation or limits of construction take place within the Streamside Management Zone of a Type 2 or 3 Water or within the ordinary high-water mark of a Type 4 Water and the operation takes place on a sideslope of forty (40) percent or less:

(i) The following harvest involving off-road use of tractor or wheeled skidding systems:

(aa) Salvage of logging residue.

(bb) Salvage of dead, down or dying timber, if less than forty (40) percent of the total timber volume is removed in any twelve-month (12-month) period.

(cc) West of the Cascade Summit, partial cutting of forty (40) percent or less of the live timber volume.

(dd) East of the Cascade Summit, partial cutting of five thousand (5,000) board feet per acre or less.

(ee) Any harvest on less than forty (40) acres.

(ii) Construction of six hundred (600) or more feet of road, provided that the Department shall be renotified at least two (2) business days before commencement of the construction.

(5) "Class III" Forest practices not listed under Classes IV, I or II above are "Class III" forest practices. Among Class III forest Practices are the following:

(a) Those requiring Hydraulic Project Approval (RCW 75.20.100).

(b) Those within the shorelines of the State other than those in a Class I forest practice.

(c) Aerial application of insecticides.

(d) Aerial application of chemicals (except insecticides) on over one hundred sixty (160) acres or within one hundred (100) feet of lands used for farming.

(e) Harvest or salvage of timber except where classed as Class I, II or IV forest practices.

(f) All road construction and reconstruction except as listed in Classes I, II and IV forest practices.

(g) Opening of new pits or extensions of existing pits over one (1) acre.

(h) Road maintenance involving:

(i) Replacement of bridges or culverts across Type 1, 2, 3, or flowing Type 4 Waters; or

(ii) Movement of material that has a direct potential for entering Type 1, 2, 3 or flowing Type 4 Waters.

(i) Operations involving an applicant's bond in lieu of a landowner's signature.

(j) Site preparation or slash abatement not listed in Classes I or IV forest practices.

(6) **Continuing Review of Forest Practices Classification:** (a) RCW 76.09.050 directs the Forest Practices Board to establish by rule which forest practices shall be included in each of the four (4) classes, and directs that these rules:

(i) Not include in Class I any categories of forest practice which the Board finds to have a direct potential for damage to a public resource,

(ii) Exclude from Class II all categories of forest practice which the Board finds to have an ordinary or greater than ordinary potential for damage to a public resource, and

(iii) Include in "Class IV – Special" all categories of forest practice which the Board finds to have potential for a substantial impact on the environment of the type justifying an evaluation as to whether or not a detailed statement must be prepared pursuant to chapter 43.21C RCW (SEPA).

(b) The Board finds that the regulations contained in subsections (1) through (5) of this section meet those criteria to the maximum extent feasible in light of the limited information now available, but that further refinement of these subsections may be necessary as additional experience develops under the Forest Practices Act. Therefore, the Department is requested to report to the Forest Practices Advisory Committee and the Board at least annually on any categories of forest practice which, in the opinion of the Department, should be reclassified:

(i) To make the classifications better conform to these criteria, and

(ii) To provide greater clarity and certainty for potential applicants and others as to which forest practice activities are in Classes I, II, III or IV forest practices. [Order 263, § 222-16-050, filed 6/16/76.]

Chapter 222-20 WAC APPLICATION AND NOTIFICATION PROCEDURES

WAC

222-20-010	Applications and notifications—Policy.
222-20-020	Application time limits.
222-20-030	Delivery of notifications and applications—Receipts—File numbers.
222-20-040	Approval and disapproval policy.
222-20-050	Conversion to nonforest use.
222-20-060	Deviation from prior application or notification.
222-20-070	Emergency forest practices.
222-20-080	Application and notification expiration.
222-20-090	Voluntary prefilng.

WAC 222-20-010 Applications and notifications—Policy. (1) **No Class II, III or IV forest practices** shall be commenced or continued unless the Department has received a notification for Class II forest practices, or approved an application for Class III or IV forest practices pursuant to the Act. Where the time limit for the Department to act on the application has expired, and none of the conditions in WAC 222-20-020(1) exist, the operation may commence.

(2) **At the option** of the applicant, applications or notifications may be submitted to cover a single forest practice or any number of forest practices within reasonable geographic or political boundaries as specified by the Department. Long range plans may be submitted to the Department for review and consultation.

(3) **The Department shall** prescribe the form and contents of the notification and application, which shall specify what information is needed for a notification, and the information required for the Department to approve or disapprove the application.

(4) **Applications and notifications** for operations not converting to another use shall be signed by the landowner, the timber owner and the operator; or the operator and accompanied by a consent form signed by the timber owner and the landowner. A consent form may be another document if it is signed by the landowner(s) and it contains a statement acknowledging that he is familiar with the Forest Practices Act, including the provisions dealing with conversion to another use (RCW 76.09.060(3)). Where the application is not signed by the landowner, the Department shall, provided all the other requirements contained in chapter 222-20 WAC are met, approve the application without the signature of the landowner if:

(a) The operator or timber owner provides legal evidence of timber rights, ownership, or other legal rights;

(b) The timber owner or operator posts a bond securing compliance with the requirements of the Forest Practices Regulations (as determined necessary by the Department), and

(c) The operator or timber owner provides evidence of reasonably advance notification to the landowner of the

proposed forest practice and that the landowner has been requested to sign the application, a copy of which has been made available to the landowner; *Provided*, That in lieu of such evidence the applicant may submit a sworn statement indicating inability to locate the landowner after a reasonable good faith attempt to locate and notify the landowner of the proposed forest practice.

(5) **Where an application** for a conversion is not signed by the landowner or accompanied by a consent form, as outlined in (4) above, the Department shall not approve the application.

(6) **Transfer of the** approved application or notification to a new landowner, timber owner or operator requires written notice by the original landowner or applicant to the Department and should include the original application or notification number. In the case of a transfer of an application previously approved without the landowner's signature the new timber owner or operator must submit a bond securing compliance with the requirements of the Forest Practices Regulations as determined necessary by the Department. If an application or notification indicates that the landowner or timber owner is also the operator, or an operator signed the application, no notice need be given regarding any change in subcontractors or similar independent contractors working under the supervision of the operator of record.

(7) **Applications and notifications** must be delivered to the Department at the appropriate area office. Delivery should be in person or by registered or certified mail.

(8) **Applications and notifications** shall be considered received on the date and time shown on any registered or certified mail receipt, or the written receipt given at the time of personal delivery, or at the time of receipt by general mail delivery. Applications or notifications that are not complete, or are inaccurate will not be considered officially received until the applicant furnishes the necessary information to complete the application. If a notification or application is delivered in person to the Department by the operator or his authorized agent, the Department shall immediately provide a dated receipt. In all other cases, the Department shall immediately mail a dated receipt to the applicant. [Order 263, § 222-20-010, filed 6/16/76.]

WAC 222-20-020 Application time limits. (1) A properly completed application shall be approved or disapproved within fourteen (14) calendar days for Class III and thirty (30) calendar days for Class IV forest practices, except:

(a) To the extent the Department is prohibited from approving the application by the Act.

(b) For "Class IV-Special" applications when the Department has within ten (10) days of the receipt of an acceptable application determined a detailed environmental statement must be made, the application must be approved or disapproved within sixty (60) days, unless the Commissioner of Public Lands promulgates a formal order specifying a later date for completion of the detailed environmental statement and final action on the application. At least ten (10) days before promulgation of such an order extending the time, the applicant shall

be given written notice that the Department is requesting such extension; giving the reasons the process cannot be completed within such period; and stating that the applicant may comment in writing to the Commissioner of Public Lands or obtain an informal conference with the Department regarding the proposed extension.

(c) When they involve lands platted after January 1, 1960 or lands to be converted, the applicable time limit shall be fourteen (14) business days from transmittal to the county unless the county has waived its right to object or has consented to approval of the application.

(2) **Unless the county** has waived its rights under the Act or consents to approval, the Department shall not approve portions of an application involving lands platted after January 1, 1960, in the process of being platted or proposed to be converted to another use until at least fourteen (14) business days for Class IV applications, from the date of transmittal to the county.

(3) **Where an application** covers both Class III and Class IV forest practices, the Department shall have thirty (30) calendar days to respond, except more time may be required as in (1) above.

(4) **If the application** indicates that it covers only Class III forest practices, and the Department determines it involves some Class IV forest practices, within fourteen (14) calendar days the Department shall either so indicate or approve or disapprove the application.

(5) **Where a notification** is submitted for operations which the Department determines involve Class III or IV forest practices, the Department shall issue a Stop Work Order or take other appropriate action. If the operations were otherwise in compliance with the Act and Forest Practices Regulations, no penalty should be imposed for those operations which occurred prior to the enforcement action, *Provided*, That no damage to a public resource resulted from such operations, and the operations commenced more than five (5) days from receipt by the Department of the notification.

(6) **If the Department** fails to approve or disapprove an application or any portion thereof within the applicable time limit, the application shall be deemed approved and the operation may commence; *Provided*, That this provision shall not apply where:

(a) The county objects and the application involves lands platted after January 1, 1960 or lands to be converted where the counties right of objection is fourteen (14) business days which may be longer than the approval time limit.

(b) The Department is prohibited from approving the application by the Act.

(7) **If seasonal field** conditions prevent the Department from being able to properly evaluate the application, the Department may issue an approval conditional upon further review within sixty (60) days. [Order 263, § 222-20-020, filed 6/16/76.]

WAC 222-20-030 Delivery of notifications and applications—Receipts—File numbers. (1) Notifications and applications should be delivered in person or by registered or certified mail to the Department at the appropriate area office. Notifications and applications

actually received at the appropriate area office by other means may be accepted or returned to the applicant.

(2) **Upon delivery of** a notification or application to the appropriate area office, a written receipt for such notification or application shall be issued by the Department as follows:

(a) If delivery is in person, a dated receipt shall be issued immediately to the applicant.

(b) If delivery is by registered or certified mail, a dated receipt shall be mailed immediately to the applicant.

(c) If delivery is by other means, a receipt dated on the day the Department begins processing the application shall be mailed to the applicant.

(3) **Each receipt will** indicate the file number assigned to the notification or application. [Order 263, § 222-20-030, filed 6/16/76.]

WAC 222-20-040 Approval and disapproval policy.

(1) **Applications shall be** approved except to the extent the Department finds:

(a) The application is incomplete, improperly filed, or inaccurate.

(b) The applicable county has filed timely objections to the approval, and the application indicates that it involves lands either:

(i) Platted after January 1, 1960, or

(ii) Being converted to another use.

(c) The operator has been enjoined from conducting forest practices by a Superior Court action under the Act.

(d) Conducting the operation(s) in accordance with the application would be inconsistent with applicable Regulations and no acceptable alternate plan is provided.

(2) **If an application** is properly filed but portions of it must be disapproved, any portions of the proposed operations which can be separately conducted in compliance with these Regulations without reasonable risk to the public resources shall be approved.

(3) **The Department shall** specify the particular operations or parts thereof disapproved and the reasons for all disapprovals, citing the provision(s) of these Regulations with which the proposed operation(s) do not comply.

(4) **Approvals shall be** effective for twelve (12) months from the date issued.

(5) **Whenever an approved** application authorizes a forest practice 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 requested on the approved application, notify the Department two days before the commencement of actual operations.

(6) **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. [Order 263, § 222-20-040, filed 6/16/76.]

WAC 222-20-050 Conversion to nonforest use. If an application to harvest signed by the landowner indicates that within three (3) years after completion, the forest land will be used for an active use which is incompatible with timber growing, the reforestation requirements of these regulations shall not apply and the information relating to reforestation on the application form need not be supplied. However, if such other use is not initiated within three (3) years after such harvest is completed, the reforestation requirements (See chapter 222-34 WAC) shall apply and such reforestation shall be completed within one (1) additional year. [Order 263, § 222-20-050, filed 6/16/76.]

WAC 222-20-060 Deviation from prior application or notification. Substantial deviation from a notification or an approved application requires a revised notification or application. Other deviations may be authorized by a Supplemental Directive, Notice to Comply or Stop Work Order. The Department shall notify the Departments of Fisheries, Game and Ecology and the appropriate county of any Supplemental Directive, Notice to Comply or Stop Work Order involving a deviation from a prior notification or approved application, except where such notice has been waived. [Order 263, § 222-20-060, filed 6/16/76.]

WAC 222-20-070 Emergency forest practices. No prior notification or application shall be required for emergency forest practices necessitated by and commenced during or immediately after fire, flood, wind-storm, earthquake, structural failure or other catastrophic event. Within forty-eight (48) hours after commencement of such practice, the operator shall submit an application or notification to the Department with an explanation why emergency action was necessary. Such emergency forest practices are subject to these regulations: *Provided, however,* That the operator may take any reasonable action to minimize damage to forest lands, timber or public resources from the direct or indirect effects of the catastrophic event and: *Provided further,* the operator shall comply with any requirements of a Notice to Comply or Stop Work Order as if conducted pursuant to an approved application. [Order 263, § 222-20-070, filed 6/16/76.]

WAC 222-20-080 Application and notification expiration. The approval given by the Department to an application to conduct a forest practice shall be effective for a term of one (1) year from the date of approval. A notification is also effective for a term of one (1) year from the date of receipt. [Order 263, § 222-20-080, filed 6/16/76.]

WAC 222-20-090 Voluntary prefilling. (1) **An application may** indicate that the applicant requests approval as of a specified date more than thirty (30) days and less than ninety (90) days from its submittal to the Department. Approval of such applications shall be effective for twelve (12) months from the requested date or the date of actual approval, whichever is later.

(2) When a deferred effective date has been requested, operations may commence on or after the requested effective date without approval of the application if:

(a) The Department has not disapproved the application, and

(b) The timber owner or operator has given the Department not less than five (5) nor more than ten (10) days' written notice of intent to commence operations if the application is not disapproved within ten (10) days after filing of such notice of intent. [Order 263, § 222-20-090, filed 6/16/76.]

Chapter 222-24 WAC

ROAD CONSTRUCTION AND MAINTENANCE

WAC

- 222-24-010 Policy.
- 222-24-020 Location and design.
- 222-24-030 Road construction.
- 222-24-040 Water crossing structures.
- 222-24-050 Road Maintenance.
- 222-24-060 Rock quarries, gravel pits, borrow pits and spoil disposal areas.

Reviser's note: For an explanation of the regulations marked with an asterisk (*), see WAC 222-12-010.

WAC 222-24-010 Policy. A well designed, located, constructed, and maintained system of forest roads is essential to forest management. This section covers the location, design, construction, maintenance and abandonment of forest roads, bridges; stream crossings, quarries, borrow pits, and disposal sites used for forest road construction.

The appropriate design standard and the road location should be chosen to best balance economics and environmental objectives, including but not limited to:

(1) **Use the minimum design standard** that produces a road sufficient to carry the anticipated traffic load with reasonable safety.

(2) **Fit the road to the topography** so that a minimum of alterations to the natural features will occur.

*(3) **Minimize road locations** in narrow canyons, marshes, wet meadows, natural drainage channels, in Streamside Management Zones and nesting sites of key wildlife habitats.

*(4) **Minimize the number of stream crossings.**

*(5) **Whenever practical,** cross streams at right angles to the main channel.

(6) **Avoid duplicative roads** by keeping the total amount of construction to a minimum. Use existing roads whenever practical and avoid isolating patches of timber which, when removed, may require unnecessary road construction.

(7) **Avoid locating roads** on steep or unstable slopes or known slide prone areas unless approved by the Department. [Order 263, § 222-24-010, filed 6/16/76.]

WAC 222-24-020 Location and design. (1) **Sub-grade width** should average not more than thirty-two (32) feet for double lane roads and twenty (20) feet for single lane roads, exclusive of ditches, plus any additional width necessary for safe operations on curves and turnouts.

(2) **Balance excavation** and embankments so that as much of the excavated material as is practical will be deposited in the roadway fill sections. Where full bench construction is necessary, design suitable embankments so that the excavated material may be end hauled to appropriate deposit areas.

(3) **Design or construct** cut and fill slopes to the normal angle of repose for the materials involved, or at a lesser angle whenever practical.

*(4) **All roads** should be outslowed or ditched on the uphill side and appropriate surface drainage should be provided by the use of adequate cross drains, ditches, relief culverts, water bars, or diversion ditches.

*(5) **Cross drains,** relief culverts, and diversion ditches should not discharge onto erodible soils, or over fill slopes unless adequate outfall protection is provided.

*(6) **Install adequate** cross drains, culverts, or diversion ditches on all forest roads to minimize erosion of the road bed and cut bank. These drainage structures shall be installed at all low points in the road gradient and spaced no wider than as follows:

<u>Grade</u>	<u>Distance Westside</u>	<u>Distance Eastside</u>
0 to 8%	1,000 ft.	1,500 ft.
8% to 15%	800 ft.	1,000 ft.
15% to steeper	600 ft.	800 ft.

Except where parent material (example: rock, gravel), or topography justifies a different spacing approved by the Department.

*(7) **Relief culverts** installed on forest roads shall meet the following minimum specifications:

(a) Be at least twelve (12) inches in diameter or the equivalent.

(b) Be installed sloping toward the outside edge of the road at a minimum gradient of three (3) percent. [Order 263, § 222-24-020, filed 6/16/76.]

WAC 222-24-030 Road construction. (1) **Right-of-way Timber.** Merchantable right-of-way timber shall be removed or decked in suitable locations where the decks will not be covered by fill material or act as support for the fill or embankment.

*(2) **Debris Burial.**

(a) In permanent road construction, do not bury:

(i) Loose stumps, logs or chunks containing more than five (5) cubic feet in the load-bearing portion of the road, except as puncheon across swampy ground or for culvert protection.

(ii) Any significant amount of organic debris within the top two (2) feet of the load-bearing portion of the road, except as puncheon across swampy ground or for culvert protection.

(iii) Excessive accumulation of debris or slash in any part of the load-bearing portion of the road fill, except as puncheon across swampy ground or for culvert protection.

(b) In the cases where temporary roads are being constructed across known areas of unstable soils and where possible construction failure would directly impact

waters, the requirements in (a), (i), (ii) and (iii) above shall apply.

(3) **Compact Fills.** During road construction, fills or embankments shall be built up by layering. Each layer shall be compacted by operating the tractor or other construction equipment over the entire surface of the layer. Chemical compacting agents may be used in accordance with WAC 222-38-020.

* (4) **Stabilize Soils.** When soil, exposed by road construction, appears to be unstable or erodible and is so located that slides, slips, slumps, or washing may reasonably be expected to cause damage to a public resource, then such exposed soil areas shall be seeded with grass, clover, or other ground cover, or be treated by other means acceptable to the Department.

* (5) **Channel Clearance.** Clear stream channel of all debris and slash generated during operations prior to the removal of equipment from the vicinity, or the winter season, whichever is first.

* (6) **Drainage.**

(a) All required ditches, culverts, cross drains, drainage dips, water bars, and diversion ditches shall be installed concurrently with the construction of the roadway.

(b) Uncompleted road construction to be left over the winter season or other extended periods of time shall be drained by outsloping or cross draining. Water bars and/or dispersion ditches may also be used to minimize eroding of the construction area and stream siltation.

(7) **Temporary Road.** Means a roadway which has been constructed or opened for the purpose of the forest practice operation in question, and thereafter will be an inactive or abandoned road.

* (8) **Moisture Conditions.** Construction should be accomplished when moisture and soil conditions are least likely to result in excessive erosion and/or soil movement.

* (9) **End Haul/Sidecasts.** End haul or overhaul construction is required where significant amounts of sidecast material would rest below the twenty-five (25) year flood level of a Type 1, 2 or 3 Water, below the ordinary high-water mark of Type 4 Water, or where there is a potential for massive soil failure from overloading on unstable slopes or for damage to the public resources as determined by the Department.

* (10) **Waste Disposal.** When spoil, waste and/or other debris is generated during construction, this material may be deposited or wasted in suitable areas or locations and be governed by the following:

(a) Spoil or other debris shall be deposited above the twenty-five (25) year flood level of Type 1, 2 or 3 Waters.

(b) Spoil or other debris shall be deposited above the ordinary high-water channel of Type 4 Waters and not in a location from which it will reasonably be expected to reenter those waters.

(c) When the spoil or other debris is deposited in appropriate location, embankments so formed shall be compacted by layering as in paragraph (3) above, or so stabilized that the risk of its later entering streams is minimal. [Order 263, § 222-24-030, filed 6/16/76.]

WAC 222-24-040 Water crossing structures.

Bridge construction and culvert installation within the ordinary high-water mark of the streams of this State are subject to the Hydraulic Projects Approval Law (RCW 75.20.100), administered by the Departments of Fisheries and Game. These agencies may specify conditions for construction of stream crossings, in addition to those described below.

* (1) **Bridge Construction.**

(a) Bridges are required for new crossings of any Type 1 or 2 Waters regularly used for recreational boating.

(b) Permanent bridges shall not constrict clearly defined channels and shall be designed to pass the fifty (50) year flood level or the road shall be constructed to provide erosion protection from the fifty (50) year flood waters which exceed the water-carrying capacity of the drainage structure.

(c) One end of each new permanent log or wood bridge shall be tied or firmly anchored if any of the bridge structure is within ten (10) vertical feet of the fifty (50) year flood level.

(d) Excavation for bridges, placement of sills or abutments, and the placement of stringers or girders shall be accomplished from outside the ordinary high-water mark of all waters, except when such operations are authorized by a hydraulics permit or hydraulics agreement.

(e) Earth embankments constructed for use as bridge approaches shall be protected from erosion by high water. Some examples of protection are: planted or seeded ground cover, bulkheads, rock riprap, or retaining walls.

(f) When earthen materials are used for bridge surfacing, curbs of sufficient size shall be installed to be above the surface material and prevent such surface material from falling into the stream bed.

* (2) **Culvert Installation:** All permanent culverts installed in forest roads shall be of a size that is adequate to carry the fifty (50) year flood or the road shall be constructed to provide erosion protection from the fifty (50) year flood waters which exceed the water-carrying capacity of the drainage structure. Refer to Part Five (5) "Recommended Culvert Sizes" in the Forest Practices Board Manual for the size of permanent culverts recommended for use in forest roads.

(a) No permanent culverts shall be installed that are smaller than:

(i) Twenty-four (24) inches in diameter or the equivalent for anadromous fish streams.

(ii) Eighteen (18) inches or the equivalent for the resident game fish streams.

(iii) Twelve (12) inches or the equivalent for all other water crossings.

(b) The alignment and slope of the culvert shall parallel the natural flow of the stream whenever possible.

(c) When fish life is present, construct the bottom of the culvert at or below the natural stream bed at the inlet and outlet.

(d) Terminate culverts on materials that will not readily erode, such as riprap, the original stream bed (if stable), or other suitable materials.

(e) If water is diverted from its natural channel, return this water to its natural stream bed via culvert, flume, spillway, or the equivalent.

(f) When flumes, downspouts, downfall culverts, etc., are used to protect fill slopes or to return water to its natural courses, the discharge point must be protected from erosion by: (1) reducing the velocity of the water, (2) use of rock spillways, (3) riprap, (4) splash plates.

(g) Stream beds shall be cleared for a distance of fifty (50) feet upstream from the culvert inlet of such slash or debris that reasonably may be expected to plug the culvert.

(h) The entrance of all culverts should have adequate catch basins and headwalls to minimize the possibility of erosion or fill failure.

*** (3) Culverts in Anadromous Fish Streams.** In addition to the requirements of subsection (2) of this section, in streams used by anadromous fish:

(a) Culverts shall be either open bottomed or have the bottom covered with gravel and installed at least six (6) inches below the natural stream bed at the inlet and outlet.

(b) Closed bottom culverts shall not slope more than one-half (1/2) percent; except as provided in (e) below; open bottom culverts shall not slope more than the natural slope of the stream bed.

(c) Where multiple culverts are used, one (1) culvert shall be at least six (6) inches lower than the other(s).

(d) Culverts shall be set to retain normal stream water depth throughout the culvert length. A downstream control may be required to create pooled water back into the culvert and to insure downstream stream bed stability.

(e) Closed bottom culverts, set at existing stream gradients between one-half (1/2) percent and three (3) percent slope shall be designed with baffles for water velocity control, or have an approved designed fishway.

(f) The Department, after consultation with the Departments of Fisheries and Game, shall impose any necessary limitations on the time of year in which such culverts may be installed to prevent interference with migration or spawning of anadromous fish.

(g) Any of the requirements in (a) through (f) above may be superseded by a Hydraulics Project Approval.

*** (4) Temporary Water Crossings.**

(a) Temporary bridges and culverts, adequate to carry the highest anticipated flow in lieu of carrying the fifty (50) year flood, may be used:

(i) In the westside region if installed after June 1 and removed by September 30 of the same year.

(ii) In the eastside region if installed after the spring runoff and removed prior to the snow buildup which could feed a heavy runoff.

(iii) At other times, when the Department and applicant can agree to specific dates of installation and removal.

(b) Temporary bridges and culverts shall be promptly removed upon completion of use, and the approaches to the crossing shall be water barred and stabilized at the time of the crossing removal.

(5) Properly prepared and maintained fords may be used during periods of low water providing a hydraulics

permit is acquired. [Order 263, § 222-24-040, filed 6/16/76.]

WAC 222-24-050 Road maintenance. *** (1) Active Roads.** An active road is a forest road being actively used for hauling of logs, pulpwood, chips, or other major forest products or rock and other road building materials. To the extent necessary to prevent damage to public resources, the following maintenance shall be conducted on such roads:

(a) Culverts and ditches shall be kept functional.

(b) Road surface shall be maintained as necessary to minimize erosion of the subgrade.

(c) During and on completion of operations, road surface shall be crowned, outsloped, or water barred and berms removed from the outside edge except those intentionally constructed for protection of fills.

*** (2) Inactive Roads.** An inactive road is a forest road the use of which for commercial hauling is discontinued for one or more logging seasons, and the forest landowner desires continuation of access for fire control, forest management activities, Christmas tree growing operations, occasional or incidental use for minor forest products harvesting or similar activities on such inactive roads:

(a) Before the first winter rainy season following termination of active use, nonfunctional ditches and culverts shall be cleared and the road surface shall be crowned, outsloped, water barred or otherwise left in a condition not conducive to accelerated erosion; and

(b) Thereafter, except as provided in (c), the landowner shall clear or repair ditches or culverts which he knows or should know to be nonfunctional and causing or likely to cause material damage to a public resource.

(c) The landowner shall not be liable for penalties or monetary damages, under the Act, for damage occurring from a condition brought about by public use, unless he fails to make repairs as directed by a Notice to Comply.

*** (3) Abandoned Roads.** An abandoned road is a forest road which the forest landowner does not intend to be used again for commercial hauling of forest products. No subsequent maintenance of an abandoned road is required after the following procedures are completed:

(a) Roads are outsloped, water barred, or otherwise left in a condition suitable to control erosion, and

(b) Ditches are cleaned, and

(c) The road is blocked to vehicular traffic or is posted "closed."

(d) The Department may request the removal of bridges and culverts on Type 1, 2, 3 and 4 Waters, except where the owner elects to maintain the drainage structures.

*** (4) Brush Control.** Chemical control of roadside brush shall not be done where chemicals will directly enter any Type 1, 2, or 3 or flowing Type 4 Water. Refer to WAC 222-38-020 for additional information.

*** (5) Road surface treatment.**

(a) Apply oil to the road surface only when the temperature is above fifty-five (55) degrees F and during the season when there is a minimal chance of rain for the next forty-eight (48) hours.

(b) Water the road surface prior to application of oil to assist in penetration.

(c) Construct a temporary berm along the road shoulder wherever needed to control runoff of the applied chemical.

(d) Take extreme care to avoid excess application of road chemicals. Shut off the flow at all bridges.

(e) When cleaning out chemical storage tanks or the application equipment tanks used for storage and application of road treatment materials, dispose of the rinse water fluids on the road surface or in a place safe from potential contamination of water.

(f) The use of dry road chemicals shall be in compliance with WAC 222-38-020. [Order 263, § 222-24-050, filed 6/16/76.]

WAC 222-24-060 Rock quarries, gravel pits, borrow pits, and spoil disposal areas. Not Covered By The Surface Mine Reclamation Act of 1971 (chapter 78.44 RCW).

***(1) Location of pits.** Except as approved by the Department, rock quarries and gravel pits opened after January 1, 1975 shall be located above the twenty-five (25) year flood level.

***(2) Location of spoil disposal areas.** Except as approved by the Department, spoil disposal areas shall be located:

(a) Above the twenty-five (25) year flood level.

(b) Where the final slope after disposal will be no steeper than 1 1/2:1.

(c) Where practical, on areas having low potential timber productivity, [.]

(d) Where the risk of soil erosion and mass soil movement is minimal.

(e) All spoils shall be placed to allow drainage without additional water ponding.

***(3) Pit drainage.** During construction and use of rock quarries, gravel pits, or borrow pits, runoff water shall be either diverted onto the forest floor or be passed through one or more settling basins as approved by the Department.

(4) Rehabilitation required. All rock quarries, gravel pits, spoil disposal areas and borrow pits used after January 1, 1975 shall be reclaimed within two (2) years from the time the rock or gravel source is either exhausted or abandoned.

(5) Rehabilitation standards. Where rehabilitation is required:

(a) Remove all deleterious material that has potential for damaging the public resource, the soil productivity, or that would prevent reforestation of an otherwise plantable area.

(b) Grade slopes to less than the angle of repose unless otherwise approved.

(c) Reforest in accordance with chapter 222-34 WAC to the extent practical.

(d) Seed unreforested exposed erodible soils with grass, clover or other ground cover.

***(6) Major spoil disposal operations.** Where a spoil disposal operation involves more than one thousand (1,000) cubic yards of spoils:

(a) The spoils shall be placed to provide drainage onto the forest floor without water ponding within the disposal area,

(b) The site shall be reforested in accordance with chapter 222-34 WAC to the extent practical, and

(c) If significant erosion of the spoils develops, the eroding areas shall be water barred and any unreforested areas shall be matted, mulched, or seeded with grass or ground cover. [Order 263, § 222-24-060, filed 6/16/76.]

Chapter 222-30 WAC TIMBER HARVESTING

WAC

222-30-010	Policy—Timber harvesting.
222-30-020	Harvest unit planning and design.
222-30-030	Stream bank integrity.
222-30-040	Temperature control.
222-30-050	Felling and bucking.
222-30-060	Cable yarding.
222-30-070	Tractor and wheeled skidding systems.
222-30-080	Landing cleanup.
222-30-090	Post harvest site preparation.
222-30-100	Slash disposal.

Reviser's note: For an explanation of the regulations marked with an asterisk (*), see WAC 222-12-010.

WAC 222-30-010 Policy—Timber harvesting. This section covers all removal of timber from forest lands in commercial operations, commercial thinning, salvage of timber, relogging merchantable material left after prior harvests, post harvest cleanup, and clearing of merchantable timber from lands being converted to other uses. It does not cover removal of incidental vegetation or removal of firewood for personal use. To the extent practical the Department shall coordinate the activities on a multiple disciplinary planning approach. [Order 263, § 222-30-010, filed 6/16/76.]

WAC 222-30-020 Harvest unit planning and design. (1) **Logging system.** The logging system should be appropriate for the terrain, soils, and timber type so yarding or skidding can be economically accomplished in compliance with these regulations.

***(2) Landing locations.**

(a) Locate landings on firm ground above the ordinary high-water mark of any stream. Avoid excessive excavation.

(b) Landings involving sidecast or fill shall be located where the toe of the sidecast or fill does not lie below the fifty (50) year flood level of a Type 1, 2 or 3 Water or below the ordinary high-water mark of a Type 4 Water.

(3) Landing construction.

(a) Landings requiring sidecast or fill shall be no larger than reasonably necessary for safe operation of the equipment expected to be used.

(b) Where the average general slopes exceed sixty-five (65) percent, fill material used in construction of landings shall be free of loose stumps and excessive accumulations of slash and shall be mechanically compacted where necessary and practical in layers by tractor

to prevent soil erosion and mass soil movement. Chemical compacting agents may be used in accordance with WAC 222-38-020.

*(c) Truck roads, skid or fire trails shall be outslped or cross drained uphill of landings and the water diverted onto the forest floor away from the toe of any landing fill.

(d) Landings shall be sloped to minimize accumulation of water on the landing.

*(e) Excavation material shall not be sidecast where there is high potential for material to enter below the ordinary high-water mark of any stream or the fifty (50) year flood level of Type 1, 2 or 3 Water.

*(4) **Streamside Management Zone.** Harvest units shall be designed so that felling, bucking, yarding or skidding, and reforestation can be accomplished in accordance with these regulations, including those regulations relating to stream bank integrity and temperature control. Where the need for additional actions or restrictions adjacent to waters not covered by the following become evident, WAC 222-12-050 and 222-12-060 may apply.

(5) **Future productivity.** Harvesting shall leave the land in a condition conducive to future timber production except:

(a) To the degree required for Streamside Management Zones, or

(b) Where the lands are being converted to another use or classified urban lands as specified in WAC 222-34-050.

(6) **Wildlife habitat.** This section is designed to encourage timber harvest practices that would protect wildlife habitats, provided, that such action shall not unreasonably restrict landowners action without compensation.

(a) The applicant should make every reasonable effort to cooperate with the Department of Game to identify key wildlife habitats as defined by the Board. Where these habitats are known to the applicant, they shall be identified in the application or notification.

(b) Where a key wildlife habitat has been identified the applicant shall consider reasonable means of protection thereof as part of the proposed harvesting operation.

(c) Harvesting methods and patterns in established big game winter ranges should be designed to insure adequate access routes and escape cover where practical.

(i) Where practical, cutting units should be designed to conform with topographical features.

(ii) Where practical on established big game winter ranges, cutting units should be dispersed over the area to provide cover, access for wildlife, and to increase edge effect.

(d) In areas where this will not create a significant fire or safety hazard nor conflict with achieving conformance with the limitation of or performance with the provisions of chapter 76.04 RCW (Snag Falling Law) and chapter 49.17 RCW (Safety), a reasonable number of snags will be left to protect habitat for cavity nesting wildlife. [Order 263, § 222-30-020, filed 6/16/76.]

WAC 222-30-030 Stream bank integrity. In the Streamside Management Zone along all Type 1, 2 and 3 Waters, use reasonable care to:

(1) **Avoid disturbing brush** and similar understory vegetation;

(2) **Avoid disturbing stumps** and root systems;

(3) **Leave high stumps** where necessary to prevent felled and bucked timber from entering the water.

The Streamside Management Zone is measured from the ordinary high-water on both sides of the water and is fifty (50) feet in width for Type 1 and 2 Waters and twenty-five (25) feet for Type 3 Water. [Order 263, § 222-30-030, filed 6/16/76.]

WAC 222-30-040 Temperature control. (1) **Designation of temperature** sensitive waters:

(a) The waters described in WAC 222-16-040 have been determined not to be temperature sensitive.

(b) Other Type 1 Waters are presumed to be temperature sensitive except where the Department determines they are not temperature sensitive based on criteria specified in WAC 222-16-040.

(c) Other Type 2 or 3 Waters may be designated, prior to the deadline for approval or disapproval of the application to harvest, by the Department as temperature sensitive based on field data or criteria set forth in WAC 222-16-040.

(2) **Shade Requirements.** Within the Streamside Management Zone along those Type 1, 2 and 3 waters designated as temperature sensitive, unless a waiver is granted by the Department under (3) below, the operator shall:

(a) Leave all nonmerchantable vegetation which provides mid-summer and mid-day shade of the water surface, and

(b) Leave sufficient merchantable timber, if any, necessary to retain fifty (50) percent of the summer mid-day shade of the water surface, provided that the Department shall require leaving seventy-five (75) percent of the shade where it determines that the mean of the maximum summer daily ambient water temperatures, for a seven-day (7-day) period, exceeds sixty (60) degrees before logging. (See the Forest Practice Board Manual Part 2 for methods of shade determination.)

(3) **Waivers.** The Department may waive or modify the shade requirements where the applicant:

(a) Shows a high probability of windthrow and agrees to replant the streamside management zone within the first planting season after harvest, or

(b) Agrees to a staggered setting program producing equal or greater temperature control, or

(c) Provides alternative means of stream temperature control satisfactory to the Department. [Order 263, § 222-30-040, filed 6/16/76.]

WAC 222-30-050 Felling and bucking. *(1) **Felling into stream.**

(a) No trees will be felled into Type 1, 2 and flowing Type 3 Waters, except trees which cannot practically and safely be felled outside the stream, lake or pond using techniques in general use and these trees must then be removed promptly.

(b) Trees may be felled into nonflowing intermittent Type 3 and into Type 4 Water if logs are removed as soon thereafter as practical.

***(2) Bucking in streams.**

(a) No bucking or limbing shall be done on trees or portions thereof lying between the banks of Type 1, 2 or 3 Water, except as necessary to remove the timber from the stream, lake or pond.

(b) Where bucking or limbing is done between the banks of a Type 4 Water, care shall be taken to minimize accumulation of slash in the stream, lake or pond.

***(3) Felling in Streamside Management Zones.**

(a) Individual trees within a Streamside Management Zone otherwise restricted from cutting may be harvested if reasonably expected to fall into the stream, lake or pond from natural causes.

(b) Care shall be taken to fall any trees cut within the Streamside Management Zone in a manner to prevent damage to the stream, lake or pond and Streamside Management Zone.

***(4) Felling near Streamside Management Zone and setting boundaries.** Reasonable care shall be taken to avoid felling trees into Streamside Management Zones and areas outside the harvest unit.

(5) Felling in selective and partial cuts. Reasonable care shall be taken to fall trees in directions that minimize damage to residual trees. [Order 263, § 222-30-050, filed 6/16/76.]

WAC 222-30-060 Cable yarding. *(1) Type 1, 2 and flowing Type 3 Water. No timber shall be cable yarded in or across a Type 1, 2 or flowing Type 3 Water except where:

(a) The logs will not materially damage the stream bed, banks or Streamside Management Zone, or

(b) Necessary to remove trees from the stream, or

(c) Part of a stream clearance and improvement project approved by the Departments of Fisheries or Game, or

(d) Approved by the Department.

***(2) Nonflowing Type 3 Water.** When cable yarding across nonflowing Type 3 Water, reasonable care shall be taken to minimize disturbance of the stream bed and banks.

***(3) Deadfalls.** Any logs which are firmly embedded in the bed of a Type 1, 2 or 3 Water shall not be removed or unnecessarily disturbed without approval of the Departments of Fisheries and Game.

***(4) Yarding in Streamside Management Zone.** Where timber is yarded from or across a Streamside Management Zone, reasonable care shall be taken to minimize damage to the vegetation providing shade to the stream. Where practical and consistent with good safety practices, logs shall be yarded in the direction in which they lie until clear of the Streamside Management Zone.

(5) Direction of yarding.

(a) Uphill yarding is preferred.

(b) Where downhill yarding is used, reasonable care shall be taken to lift the leading end of the log to minimize downhill movement of slash and soils.

***(c)** When yarding parallel to a Type 1, 2 or 3 Water channel below the twenty-five (25) year flood level, reasonable care shall be taken to minimize rutting and to prevent logs from rolling into the stream, lake or pond or Streamside Management Zone. [Order 263, § 222-30-060, filed 6/16/76.]

WAC 222-30-070 Tractor and wheeled skidding systems. *(1) Streams.

(a) Tractor and wheeled skidders shall not be used in Type 1, 2 or flowing Type 3 Water, except with the approval of the Department.

(b) Skidding across any flowing Type 4 Water or nonflowing Type 3 Water shall be minimized and when done, temporary stream crossings shall be used, if necessary, to maintain stream bed integrity.

(c) Whenever skidding in or across any type water, the direction of log movement between stream banks shall be as close to right angles to the stream channel as is practical.

***(2) Streamside Management Zone.**

(a) Logging will be permitted within the zone, provided that tractors and wheeled skidders may not be used within the zone unless approved by the Department.

(b) Where skidding in or through the Streamside Management Zone is necessary, the number of skidding routes through the management zone shall be minimized.

(c) Logs shall be skidded in the direction in which they lie until clear of the Streamside Management Zone, to the extent practical and consistent with good safety practices.

(3) Deadfalls. Any logs which are firmly embedded in the bed of a Type 1, 2 or 3 Water shall not be removed or unnecessarily disturbed without approval of the Departments of Fisheries and Game.

***(4) Moisture conditions.** Tractor and wheeled skidders shall not be used on exposed erodible soils when soil moisture content is so high that unreasonable rutting, or stream, lake or pond siltation would result.

(5) Protection of residual timber. Reasonable care shall be taken to minimize damage from skidding to the stems and root systems of residual timber and to young reproduction.

***(6) Skid trail construction.**

(a) Skid trails shall be kept to the minimum feasible width.

(b) Reasonable care shall be taken to minimize the amount of sidecast required and shall only be permitted above the fifty (50) year flood level.

(c) Skid trails shall be outloped where practical, but be insloped where necessary to prevent logs from sliding or rolling downhill off the skid trail.

***(7) Skid trail maintenance.** Upon completion of use and termination of seasonal use, skid trails on slopes in exposed soils shall be water barred where necessary to prevent soil erosion.

***(8) Slope restrictions.** Tractor and wheeled skidders shall not be used on slopes where in the opinion of the Department this method of operation would cause unnecessary or material damage to a public resource. [Order 263, § 222-30-070, filed 6/16/76.]

WAC 222-30-080 Landing cleanup. Except as approved by the Department, the following rules shall be met within sixty (60) days after completion of hauling logs from any landing, or as soon thereafter as practical.

*** (1) Drainage.**

(a) Clean any ditches and culverts obstructed by dirt or debris during operation(s).

(b) Establish a slope that will prevent water from accumulating on the landing or running from the landing down any erodible fill.

*** (2) Other erosion control measures.**

(a) Cut slopes shall be cut back to an angle expected to remain stable.

(b) Where exposed soil is unstable or erodible and may be reasonably expected to cause damage to a public resource, it shall be seeded with grass, clover or ground cover or compacted, riprapped, water barred, benched or mulched, or be treated by other means approved by the Department.

(3) Cleanup.

(a) Slash accumulations which would prevent reforestation of otherwise plantable fills, sidecast or cut slopes of landings shall be disposed of or be piled on the landing floor for future disposal.

(b) Slash shall not be buried in any filled portion of the landing in connection with landing cleanup operations.

(c) All cables, machine parts and other inorganic debris resulting from harvest operation(s) shall be removed at the time of landing cleanup. [Order 263, § 222-30-080, filed 6/16/76.]

WAC 222-30-090 Post-harvest site preparation.

Unless the application or notification indicates that the landowner or forest landowner specifically agrees to assume responsibility for compliance with this section, the operator shall leave the site in a condition suitable for reforestation following any clear cutting, or any partial cutting west of the summit of the Cascades where eighty (80) percent or more of the cubic volume is removed within any five (5) consecutive years unless the Department determines that the live trees remaining will reasonably utilize the timber growing capacity of the soils. Lands being converted to another use or classified as urban development lands under WAC 222-34-050 are exempt.

(1) **The following** site preparation is required when necessary to establish a condition suitable for reforestation.

(a) Cutting or slashing of all noncommercial tree species or nonmerchantable size trees commonly known as "whips" which will not reasonably utilize the growing capacity of the soil except in the Streamside Management Zone.

(b) Pile or windrow slash, or

(c) Mechanically scatter slash, or

(d) Leave the cutover area in a condition for controlled broadcast burning, and subsequently burn.

(2) **Streamside Management Zones** may require special treatment to establish conditions suitable for reforestation. [Order 263, § 222-30-090, filed 6/16/76.]

WAC 222-30-100 Slash disposal. (1) **Slash disposal techniques:**

(a) Except on sites where the Department determines that a particular method would cause unreasonable risk to public resources, any conventional method of slash disposal may be used, such as: controlled broadcast burning; pile or windrow and burn; pile or windrow without burning; mechanical scatter and compaction; scarification; chip, mulch or lop and scatter; burying; and physical removal from the forest lands.

(b) All slash burning requires a burning permit from the Department which provides for compliance with the Smoke Management Plan and reasonable care to prevent damage to Streamside Management Zones, soil, residual timber, public resources, and other property.

* (c) **Location of slash piles.** Except where burning will be completed before the next ordinary high-water season, slash shall not be piled or windrowed below the twenty-five (25) year flood level of any Type 1 or 2 Water, or below the ordinary high-water mark of any Type 3 or 4 Water, or in locations from which it could be expected to enter any stream, lake or pond.

(2) **Slash disposal** is required when abatement of extreme fire hazard is required by law (See WAC 332-24-360).

(3) **Slash disposal** is required where the forest landowner has applied for and been granted an extension of time for reforestation on the grounds that slash disposal is necessary or desirable before reforestation.

* (4) **Removing slash and debris** from streams.

(a) "Slash" or "Debris" which can reasonably be expected to cause significant damage to the public resource shall be removed from Type 1, 2 or 3 Waters, to above the twenty-five (25) year flood level and left in a location or manner minimizing risk of re-entry into the stream, lake or pond and if substantial accumulations of slash exist below the twenty-five (25) year flood level of Type 1 or 2 Waters, slash disposal is required.

(b) "Slash" and "Debris" shall be removed from below the ordinary high-water mark of Type 4 Waters, when the Department issues written notice for removal of the slash or debris because of potential damage to public resources.

* (5) **Fire trails.**

(a) Construct dips, water bars, cross drainage and ditches as needed to control erosion.

(b) Reasonable care shall be taken to minimize excavation during fire trail construction and sidecast shall only be permitted above the fifty (50) year flood level. [Order 263, § 222-30-100, filed 6/16/76.]

Chapter 222-34 WAC REFORESTATION

WAC

222-34-010

222-34-020

222-34-030

222-34-040

222-34-050

Required reforestation—West of cascades summit.

Required reforestation—East of cascades summit.

Reforestation—Plans—Reports—Inspection.

Site preparation and rehabilitation.

Lands expected to be urban lands.

WAC 222-34-010 Required reforestation—West of cascades summit. (1) **Reforestation – where required.**

(a) Unless the harvest application indicates that the land will be converted to another use, or the lands are identified in WAC 222-34-050 as having a likelihood of conversion to urban uses, reforestation is required for forest lands harvested after January 1, 1975 in the following instances:

- (i) Clearcutting, or
- (ii) Partial cutting where fifty (50) percent or more of the timber volume is removed within any five (5) year period, unless the Department determines that the live trees remaining will reasonably utilize the timber growing capacity of the soils.
- (b) Reforestation is not required where:
 - (i) Individual dead, dying, down or windthrown trees are salvaged, or
 - (ii) A tree or trees not constituting a merchantable stand are removed from lands in actual use for other purposes; for example, removal of individual trees from lands used for farming or grazing, or
 - (iii) Trees are removed under a thinning program reasonably expected to maximize the long-term production of commercial timber, or
 - (iv) A minimum of three hundred (300) vigorous, undamaged seedlings, saplings, or merchantable trees per acre remain after logging, or combinations thereof, well-distributed on the area harvested.

(2) **Satisfactory reforestation – clearcuts.** Satisfactory reforestation of a clearcut harvest occurs if within three (3) years of completion of harvest, or a period of from one (1) to five (5) years as determined by the Department in the case of a natural regeneration plan, the site is restocked to at least the acceptable stocking levels described in paragraph (4) of this subsection. *Provided*, That regeneration failures from causes beyond the applicant's control will not result in violation of this section, but supplemental planting may be required (See WAC 222-34-030(4)).

The Department may grant an extension of time for planting or seeding if suitable seedlings or seeds are unavailable, or if weather conditions or other circumstances beyond the forest landowner's control require delay in planting or seeding.

(3) **Reforestation Species.** Where the species proposed for reforestation after timber harvesting differs from the removed stand, the Department may approve use of the proposed species where the reforestation plan reveals that the proposed species is preferable from any of the following standpoints:

- (a) Site data indicates better potential production for the proposed species than the existing species.
- (b) Control of forest insects or diseases.
- (c) Greater economic return.

(4) **Acceptable stocking.** Stocking levels are acceptable if three hundred (300) well-distributed, vigorous seedlings per acre of commercial tree species or such lesser number as the Department determines will fully utilize the timber growing capacity of the site, have survived on the site at least one (1) growing season. "Well-distributed" shall mean that no significant plantable

area contains fewer than the equivalent of three hundred (300) trees per acre.

(5) **Seedling or seeding standards.** Except as approved by the Department to qualify as acceptable reforestation:

- (a) The seedlings or seeds must be from an appropriate seed source zone. The Department shall establish seed zones and guidelines for their use.
- (b) Competing vegetation shall be controlled to the extent necessary to allow survival and growth of commercial species.

(6) **Natural regeneration standards.** A natural regeneration plan may be approved as acceptable reforestation if:

- (a) A seed source of well formed trees of commercial tree species, capable of seed production is available.
- (b) The owner of the seed source agrees in writing not to harvest the seed source for the time period specified in the plan, or until issuance of a satisfactory reforestation inspection report.
- (c) The seed source must consist of:
 - (i) Seed blocks of sizes and locations shown on the plan and satisfactory to the Department, or
 - (ii) An average of at least eight (8) individually marked, well-distributed, undamaged, vigorous, wind-firm seed trees per acre of plantable area and no inadequately stocked area is more than four hundred (400) feet from the nearest seed tree, and
 - (iii) Competing vegetation shall be controlled to the extent necessary to allow survival and growth by commercial species.

(7) **Satisfactory reforestation – partial cuts.** Where reforestation is required in connection with a partial cut, the harvest application shall include a plan for stocking improvement. The plan shall be approved unless the Department determines that it will not reasonably utilize the timber growing capacity of the site to the extent practical.

(8) **Any alternate plan** for natural reforestation may be approved if it provides a practical method of achieving acceptable stocking levels as described in (4) above within a period of one (1) to five (5) years. [Order 263, § 222-34-010, filed 6/16/76.]

WAC 222-34-020 Required reforestation—East of cascades summit. (1) **Reforestation – where required.**

(a) Unless the harvest application indicates that the land will be converted to another use, or the lands are identified in WAC 222-34-050 as having a likelihood of conversion to urban use, reforestation is required for forest lands harvested after January 1, 1975 in the following instances:

- (i) Clearcutting, or
- (ii) Partial cutting where fifty (50) percent or more of the timber volume is removed within any five-year (5-year) period, unless the Department determines that the live trees remaining will reasonably utilize the timber growing capacity of the soils.

(b) Reforestation is not required where:

- (i) Individual dead, dying, down or windthrown trees are salvaged, or

(ii) A tree or trees not constituting a merchantable stand are removed from lands in actual use for other purposes, for example, removal of individual trees from lands used exclusively for farming or cultivated pasture, or

(iii) Trees are removed under a thinning program reasonably expected to maximize the long-term production of commercial timber, or

(iv) A minimum of one hundred (100) vigorous undamaged seedlings, saplings or merchantable trees per acre of a commercial tree species remain after logging, or combinations thereof, well-distributed on the area harvested.

(2) **Satisfactory reforestation – clearcuts.** Satisfactory reforestation of a clearcut harvest occurs if within three (3) years of completion of harvest or a period of from one (1) to five (5) years as determined by the Department in the case of a natural regeneration plan, the site is restocked to at least the acceptable stocking levels described in paragraph (4) of this subsection, *Provided*, That regeneration failures from causes beyond the applicant's control will not result in a violation of this section, but supplemental planting may be required (See WAC 222-34-030(4)).

The Department may grant an extension of time for planting or seeding if suitable seedlings or seeds are unavailable, or if weather conditions or other circumstances beyond the forest landowner's control require delay in planting or seeding.

(3) **Reforestation Species.** Where the species proposed for reforestation after timber harvesting differs from the removed stand, the Department may approve use of the proposed species where the reforestation plan reveals that the proposed species is preferable from any of the following standpoints:

(a) Site data indicates better potential production for the proposed species than the existing species.

(b) Control of forest insects or diseases.

(c) Greater economic return.

(4) **Acceptable stocking.** Stocking levels are acceptable if one hundred fifty (150) well-distributed, vigorous seedlings per acre of commercial tree species have survived on the site at least one (1) growing season. "Well-distributed" means that no significant plantable area contains fewer than the equivalent of one hundred fifty (150) trees per acre. Lesser numbers of trees per acre may be acceptable if the Department determines that the timber growing capacity of the site will be fully utilized.

(5) **Seedling and seed standards.** Except as approved by the Department to qualify as acceptable reforestation:

(a) The seedlings and seed must be from an appropriate seed source zone. The Department shall establish seed zones and guidelines for their use.

(b) Competing vegetation shall be controlled to the extent necessary to allow survival and growth of commercial tree species.

(6) **Natural regeneration standards.** A natural regeneration plan may be approved by the Department as acceptable reforestation if:

(a) A seed source of well-formed, vigorous trees of commercial tree species capable of seed production is available.

(b) The owner of the seed source agrees in writing not to harvest the seed source for the time period specified in the plan or until issuance of a satisfactory reforestation inspection report.

(c) The seed source consists of one of the following, or combinations thereof:

(i) Seed blocks which total a minimum of five (5) percent of the area of each forty (40) acre subdivision or portion thereof harvested, *Provided*, That the seed block should be reasonably windfirm, at least one-half (1/2) acre in size, and reserved in locations shown on the plan and approved by the Department, or

(ii) A minimum of four (4) undamaged seed trees per acre, well distributed over each forty (40) acre subdivision or portion thereof harvested, *Provided*, That the distance from seed trees of harvested areas that are not adequately stocked should not be more than two hundred (200) feet. Seed trees shall be of commercial tree species, vigorous and of seed-bearing age and size.

(7) **Satisfactory reforestation—partial cuts.** Partial cuts not meeting the specifications of (1)(b)(iv) shall have a seed source as required in (6)(c)(ii) above.

(8) **Any alternate plan** for natural reforestation may be approved if it provides a practical method of achieving acceptable stocking levels as described in (4) above within a period of one (1) to five (5) years. [Order 263, § 222-34-020, filed 6/16/76.]

WAC 222-34-030 Reforestation—Plans—Reports—Inspections. (1) **Reforestation plans.** Reforestation plans must be submitted with the application or notification except where no reforestation is required.

(2) **Reforestation reports.** The landowner, forest landowner or his designee shall file a report with the Department either at the time of completion of planting or at the end of the normal planting season. When artificial seeding is used the report shall be filed two growing seasons after seeding.

(3) **The reports in (2) above must contain at least the following:**

(a) The original Forest Practice application or notification number.

(b) Species planted or seeded.

(c) Age of stock planted or seed source zone.

(d) Description of actual area planted or seeded.

(4) **Inspection; supplemental planting directives.**

(a) Within twelve (12) months after a reforestation report is received, the Department shall inspect the reforested lands.

(b) If the inspection shows that acceptable stocking levels have not been achieved, the Department shall direct the forest landowner to perform supplemental planting in accordance with the planting standards of WAC 222-34-01(5) and WAC 222-34-020(5), *Provided*, That:

(i) In lieu of such supplemental planting, the Department and the forest landowner may agree on a supplemental reforestation plan.

(ii) Supplemental planting shall not be required in the eastside region where in the opinion of the Department planting is not feasible due to rocky ground, dry conditions or other adverse site factors.

(iii) Supplemental planting shall not be required if the Department determines that there is little probability of significantly increasing the stocking level.

(iv) Except where stocking improvement is necessary to protect public resources and is feasible, further supplementary planting shall not be required where acceptable stocking levels have not been achieved after two (2) properly performed supplemental plantings.

(c) **Evidence of compliance.** If the Department determines on inspection that acceptable reforestation has been achieved, on the request of the forest landowner the Department shall confirm in writing that no further reforestation obligations remain. If no supplemental planting directive has been issued within thirty (30) days after the deadline for the inspection, reforestation shall be deemed satisfactory unless the Department has informed the landowner prior to the deadline that further inspections by the Department on the area are needed.

(d) Where a natural regeneration plan has been approved by the Department, the Department may allow up to five (5) years to achieve acceptable stocking levels. [Order 263, § 222-34-030, filed 6/16/76.]

WAC 222-34-040 Site preparation and rehabilitation. *(1) **Heavy equipment.** Heavy equipment shall not be used in connection with site preparation or rehabilitation work:

(a) When, because of soil moisture conditions or the type of soils, undue compaction or erosion would result, or

(b) In Type 1, 2 or 3 Water, except as approved by the Departments of Fisheries and Game.

(c) In Streamside Management Zones except as permitted in WAC 222-30-02(4) Streamside Management Zone or WAC 222-30-030 Stream Bank Integrity.

(2) **Surface water drainage.** Where site preparation or rehabilitation involves contouring or terracing of slopes, drainage ditches, or similar work:

(a) The gradient of ditches or other artificial water courses in erodible soils shall not cause significant stream, lake or pond siltation.

(b) Ditches and other artificial water courses shall not discharge onto any road, landing or fill.

(c) Ditches and other artificial water courses shall not be constructed to discharge onto the property of other parties without their consent.

(3) **Stream channel alignment.** Where work involves deepening, widening, straightening or relocating the channel; or bulkheading, riprapping or otherwise stabilizing the banks of a Type 1, 2 or 3 Water, the work shall be done only:

(a) In compliance with the Hydraulics Act and the Shoreline Management Act in cases of Type 1 Water.

(b) After consultation with any party having an appropriation permit or registered right to appropriate waters from the affected stream segment in cases of streams used for domestic water supplies.

(c) Where not significant adverse affects on either the peak or minimum water levels or flows downstream can be expected.

(d) In a manner not expected to result in long-term damage to public resources or to adjacent or downstream property. [Order 263, § 222-34-040, filed 6/16/76.]

WAC 222-34-050 Urban and other lands exempted from the reforestation requirements. (1) **Those lands which** an applicant has declared are to be converted to a nonforest use and are in fact converted within three (3) years of completion of harvest.

(2) **Those lands the** Department determines should be exempted in whole or in part where the forest land has the likelihood of future conversion to urban development and where:

(a) They have the likelihood of development within a ten (10) year period, and

(b) The development is for urban use, and

(c) The development contemplated would be consistent with any local or regional land use plans or ordinances, and

(d) Said lands have not been classified or designated reforestation lands under chapter 84.28 RCW, forest land under chapter 84.33 RCW or timber lands under chapter 84.34 RCW (Open Space Law).

(3) **Utility Rights-of-Way.** Reforestation is not required for initial clearing or reclearing of utility rights-of-way in actual use for utility purposes or scheduled for construction of utility facilities within ten (10) years from the date of completion of harvest, provided that if the scheduled facility is not completed, the area shall be reforested within one (1) year.

(4) **Public Lands.** Reforestation is not required on the following lands, unless required by regulation of the agency owning or acquiring the lands:

(a) Lands owned in fee by a public agency which has budgeted for construction within ten (10) years a specific project inconsistent with commercial timber production.

(b) Lands being acquired by public agency for construction within ten (10) years of a project inconsistent with timber production, if at the time of completion of harvest the public agency has entered into a binding contract for the purchase of the lands or initiated legal proceedings for the condemnation of the lands. [Order 263, § 222-34-050, filed 6/16/76.]

Chapter 222-38 WAC FOREST CHEMICALS

WAC

222-38-010 Policy—Forest chemicals.
222-38-020 Handling, storage, application.

Reviser's note: For an explanation of the regulations marked with an asterisk (*), see WAC 222-12-010.

WAC 222-38-010 Policy—Forest chemicals. Chemicals perform important functions in forest management. The purpose of these Regulations is to regulate the handling, storage and application of chemicals in

such a way that the public health, soils, wildlife and aquatic habitat will not be endangered by contamination. This section in no way modifies the State Department of Agriculture regulations governing chemicals. [Order 263, § 222-38-010, filed 6/16/76.]

WAC 222-38-020 Handling, storage, application.

*** (1) Leakage.**

(a) No significant leakage of chemicals into water or soil is permitted from any equipment used for their transportation, storage, mixing or application.

(b) The Department or the Department of Agriculture may suspend further use of any equipment responsible for significant chemical leakage, until the deficiency has been corrected to the satisfaction of the Department suspending its usage.

*** (2) Mixing.** When water is used in mixing of chemicals:

(a) Provide an air gap or reservoir between the water source and the mixing tank.

(b) Use uncontaminated pumps, hoses and screens.

*** (3) Mixing and landing areas.**

(a) Mix chemicals and clean tanks and equipment only where any spills would not enter any water types.

(b) Landing areas should be located where spillage of chemicals will not cause them to become a contaminate. If any chemical is spilled, immediate appropriate procedures should be taken to contain or neutralize it.

*** (4) Aerial application.**

(a) Leave at least fifty (50) feet untreated on each side of all Type 1 and 2 Water and other areas of open water, such as ponds or sloughs or leave twenty-five (25) feet untreated on each side of Type 3 Waters.

(b) Where practical, apply the initial swath parallel to the untreated zones in (a) above on Type 1, 2 or 3 Waters and other areas of open water, such as ponds or sloughs.

(c) Use a bucket or spray device capable of immediate shutoff.

(d) Shut off chemical application during turns and over open water.

(e) Avoid direct entry of chemicals into any Type 1 or flowing Type 2 or 3 Water.

*** (5) Stream protection – ground application with power equipment.**

(a) Leave at least ten (10) feet untreated on each side of every Type 1 and 2 Water and each flowing Type 3 Water.

(b) Avoid direct entry of chemicals into any water.

(c) Avoid exceeding intended or allowable dosages.

*** (6) Stream protection – hand application.**

(a) Apply only to specific targets, such as a stump, burrow, bait or trap.

(b) Keep chemicals out of all water.

(7) **Limitations on application.** Chemicals shall be applied only in accordance with all limitations:

(a) Printed on the Environmental Protection Agency container registration label, and/or

(b) Established by regulation of the State Department of Agriculture.

(c) Established by State and local health departments (in municipal watersheds).

(d) Established by the Federal Occupational Safety and Health Administration, or the State Department of Labor and Industries, as they relate to safety and health of operating personnel and the public.

(8) **Container disposal.** Chemical containers shall be either:

(a) Removed from the forest and disposed of in the manner described by the State Department of Agriculture, or

(b) Removed and cleaned for reuse in a manner not inconsistent with any applicable regulations of the State Department of Agriculture or the State or local health departments, or

(c) Buried in a manner approved by the Department.

(9) **Daily records – aerial application of pesticides.** On all aerial applications of pesticides, the operator shall maintain for three (3) years daily records of spray operations as required by the State Department of Agriculture WAC 16-235-030.

* (10) **Reporting of spills.** All potentially damaging chemical spills shall be immediately reported to the Department and the Departments of Agriculture and Ecology. [Order 263, § 222-38-020, filed 6/16/76.]

**Chapter 222-42 WAC
SUPPLEMENTAL DIRECTIVES**

WAC

222-42-010 Supplemental directives.

WAC 222-42-010 Supplemental directives. (1) **Purpose of Supplemental Directives.** The Department may issue supplemental directives to the forest landowner, timber owner and operator, advising them to take or not take as part of any forest practice operations specified actions the Department determines to be preferred courses of action or minor changes in the operation to provide greater assurance that the purposes and policies set forth in RCW 76.09.010 of the Act will be met.

(2) **Content of Supplemental Directives.** Supplemental directives shall indicate the reason for their issuance.

(3) **Form, Service.** All supplemental directives shall either be in writing, or be confirmed in writing. The supplemental directive shall be given to the operator and a copy mailed promptly to the forest landowner and to the timber owner if different than the forest landowner.

(4) **Directive Constitutes Approval.** No other approval of the Department shall be necessary to conduct forest practice operations in compliance with the terms of a supplemental directive.

(5) **Informal Discussions.** The Department shall provide an opportunity for an informal discussion before issuing, withdrawing or modifying a supplemental directive. [Order 263, § 222-42-010, filed 6/16/76.]

**Chapter 222-46 WAC
ENFORCEMENT**

WAC

222-46-010 Policy—Enforcement.
222-46-020 Informal conferences.

222-46-030	Notice to comply.
222-46-040	Stop Work Orders.
222-46-050	Corrective action.
222-46-060	Civil penalties.
222-46-070	Injunctions, civil suits.
222-46-080	Criminal penalty.

WAC 222-46-010 Policy—Enforcement. It is the policy of the Act and the Board to encourage informal, practical, result-oriented resolution of alleged violations and actions needed to prevent damage to public resources. It is also the policy of the Act and the Board to provide, consistent with the principles of due process, effective procedures for enforcement. This part of these Regulations provides the following enforcement procedures: informal conferences; Notices to Comply; Stop Work Orders; corrective actions by the Department; civil penalties; injunctions and other civil judicial relief; and criminal penalties. The enforcement procedure used in any particular case shall be appropriate in view of the nature and extent of the violation or the damage or risk to public resources and the degree of bad faith or good faith of the persons charged. [Order 263, § 222-46-010, filed 6/16/76.]

WAC 222-46-020 Informal conferences. (1) **Opportunity mandatory.** The Department shall afford the operator or his representative reasonable opportunities to discuss proposed enforcement actions at an informal conference prior to taking further enforcement action, unless the Department determines that there may be imminent damages to the public resource. Informal conferences may be used at any stage in enforcement proceedings, except that the Department may refuse to conduct informal conferences with respect to any matter then pending before the Appeals Board or a court.

(2) **Reports required.** Department personnel in attendance at informal conferences shall keep written notes of the date and place of the conference, the persons in attendance, the subject matter discussed, and any decisions reached with respect to further enforcement action.

(3) **Records available.** Copies of written notes shall be sent to each participant in the conference, be kept in the Department files until one (1) year after final action on the application involved, and be open to public inspection. [Order 263, § 222-46-020, filed 6/16/76.]

WAC 222-46-030 Notice to comply. If a violation, a deviation, material damage or potential for material damage to a public resource has occurred and the Department determines that a Stop Work Order is unnecessary, then the Department shall issue and serve upon the operator or landowner a notice which will clearly set forth:

(1)(a) **The specific** nature, extent, and time of failure to comply with the approved application; or identifying the damage or potential damage; and/or

(b) The relevant provisions of the Forest Practices Act or of the Forest Practices Regulations relating thereto;

(2) **The right** of the operator or landowner to a hearing before the Department; and

(3) **The specific** course of action ordered by the Department to be followed by the operator to correct such

failure to comply and to prevent, correct and/or compensate for material damage to public resources which resulted from any violation, unauthorized deviation, or wilful or negligent disregard for potential damage to a public resource; and/or those courses of action necessary to prevent continuing damage to public resources where the damage is resulting from the forest practice activities but has not resulted from any violation, unauthorized deviation, or negligence.

The Department shall mail a copy thereof to the forest landowner and the timber owner at the addresses shown on the application, showing the date of service upon the operator.

Such Notice to Comply shall become a final order of the Department; *Provided*, That no direct appeal to the Appeals Board will be allowed from such final order. Such operator shall undertake the course of action so ordered by the Department unless, within fifteen (15) days after the date of service of such Notice to Comply, the operator, forest landowner, or timber owner, shall request the Department in writing to schedule a hearing. If so requested, the Department shall schedule a hearing on a date not more than twenty (20) days after receiving such request. Within ten (10) days after such hearing, the Department shall issue a final order either withdrawing its Notice to Comply or clearly setting forth the specific course of action to be followed by such operator. Such operator shall undertake the course of action so ordered by the Department unless within thirty (30) days after the date of such final order, the operator, forest landowner, or timber owner appeals such final order to the Appeals Board. No person shall be under any obligation under this section to prevent, correct, or compensate for any damage to public resources which occurs more than one (1) year after the date of completion of the forest practices operations involved exclusive of reforestation, unless such forest practices were not conducted in accordance with Forest Practices Rules and Regulations: *Provided*, That this provision shall not relieve the forest landowner from any obligation to comply with Forest Practices Rules and Regulations pertaining to providing continuing road maintenance. No action to recover damages shall be taken under this section more than two (2) years after the date the damage involved occurs. [Order 263, § 222-46-030, filed 6/16/76.]

WAC 222-46-040 Stop Work Orders. (1) **The Department** shall have the authority to serve upon an operator a Stop Work Order which shall be a final order of the Department if:

(a) There is any violation of the provisions of the Forest Practices Act or these Regulations or

(b) There is a deviation from the approved application; or

(c) Immediate action is necessary to prevent continuation of or to avoid material damage to a public resource.

(2) **The Stop Work Order** shall set forth:

(a) The specific nature, extent, and time of the violation, deviation, damage, or potential damage;

(b) An order to stop all work connected with the violation, deviation, damage, or potential damage;

(c) The specific course of action needed to correct such violation or deviation or to prevent damage and to correct and/or compensate for damage to public resources which has resulted from any violation, unauthorized deviation, or wilful or negligent disregard for potential damage to a public resource; and those courses of action necessary to prevent continuing damage to public resources where the damage is resulting from the forest practice activities but has not resulted from any violation, unauthorized deviation, or negligence.

(d) The right of the operator to a hearing before the Appeals Board.

The Department shall immediately file a copy of such order with the Appeals Board and mail a copy thereof to the timber owner and forest landowner at the addresses shown on the application.

The operator, timber owner, or forest landowner may commence an appeal to the Appeals Board within fifteen (15) days after service upon the operator. If such appeal is commenced, a hearing shall be held not more than twenty (20) days after copies of the notice of appeal were filed with the Appeals Board. Such proceeding shall be a contested case within the meaning of chapter 34.04 RCW.

The operator shall comply with the order of the Department immediately upon being served, but the Appeals Board if requested shall have authority to continue or discontinue in whole or in part the order of the Department under such conditions as it may impose pending the outcome of the proceeding. [Order 263, § 222-46-040, filed 6/16/76.]

WAC 222-46-050 Corrective action. (1) Normal time schedule.

(a) **Written notice.** If an operator fails to undertake and complete any course of action with respect to a forest practice, as required by a final order of the Department or a final decision of the Appeals Board or any court pursuant to RCW 76.09.080 and RCW 76.09.090 of the Forest Practices Act, the Department may determine the cost thereof and give written notice of such cost to the operator, the timber owner and the owner of the forest land upon or in connection with which such forest practice was being conducted.

(b) **Failure to act.** If such operator, timber owner, or forest landowner fails within thirty (30) days after such notice is given to undertake such course of action, or having undertaken such course of action fails to complete it within a reasonable time as set forth by the Department, the Department may expend any funds available to undertake and complete such course of action and such operator, timber owner, and forest landowner shall be jointly and severally liable for the actual, direct cost thereof, but in no case more than the amount set forth in the notice from the Department.

(c) **Failure to pay.** If not paid within sixty (60) days after the Department completes such course of action and notifies such forest landowner in writing of the amount due, such amount shall become a lien on such forest land and the Department may collect such amount in the same manner provided in chapter 60.04 RCW for mechanics' liens.

(2) **Immediate Corrective Action.** When the operator has failed to obey a Stop Work Order issued under the provisions of RCW 76.09.080, the Department may take immediate action to prevent continuation of or avoid material damage to public resources. If a final order or decision fixes liability with the operator, timber owner, or forest landowner, they shall be jointly and severally liable for such emergency costs which may be collected in the manner provided for in RCW 76.09.120. [Order 263, § 222-46-050, filed 6/16/76.]

WAC 222-46-060 Civil penalties. (1) Amount of Penalty. Every person who fails to comply with any provisions of RCW 76.09.010 through 76.09.280 as now or hereafter amended or the Forest Practices Act or of the Forest Practices Regulations shall be subject to a penalty in an amount of not more than five hundred dollars (\$500.00) for each such violation. Each and every such violation shall be a separate and distinct violation. In case of a failure to comply with a notice pursuant to RCW 76.09.090 as now or hereafter amended or a Stop Work Order, every day's continuance thereafter shall be a separate and distinct violation.

(2) **Other Participants.** Every person who through an act of commission or omission procures, aids or abets in the violation shall be considered to have violated the provisions of this section and shall be subject to the penalty herein provided for.

(3) **Government Employees.** *Provided,* That no penalty shall be imposed under this section upon any governmental official, an employee of any governmental department, agency, or entity, or a member of any board or advisory committee created by the Act for any act or omission in his duties in the administration of the Act or of these Regulations.

(4) **Written Notice.** The penalty herein provided for shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the Department of Natural Resources describing the violation with reasonable particularity. Within fifteen (15) days after the notice is received, the person incurring the penalty may apply in writing to the Department for the remission or mitigation of such penalty. Upon receipt of the application, the Department may remit or mitigate the penalty upon whatever terms the Department in its discretion deems proper: *Provided,* That the Department deems such remission or mitigation to be in the best interests of carrying out the purposes of the Act. The Department of Natural Resources shall have authority to ascertain the facts regarding all such applications in such reasonable manner and under such regulations as they may deem proper.

(5) **Right of Appeal.** Any person incurring any penalty hereunder may appeal the same to the Forest Practices Appeals Board.

Such appeals shall be filed within thirty (30) days of receipt of notice imposing any penalty unless an application for remission or mitigation is made to the Department. When such an application for remission or mitigation is made, such appeals shall be filed within

thirty (30) days of receipt of notice from the Department setting forth the disposition of the application.

(6) **Penalties Due.** Any penalty imposed hereunder shall become due and payable thirty (30) days after receipt of a notice imposing the same unless application for remission or mitigation is made or an appeal is filed. When such an application for remission or mitigation is made, any penalty incurred hereunder shall become due and payable thirty (30) days after receipt of notice setting forth the disposition of such application unless an appeal is filed from such disposition. Whenever an appeal of any penalty incurred hereunder is filed, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final decision confirming the penalty in whole or in part.

(7) **Foreclosure.** If the amount of any penalty is not paid to the Department within thirty (30) days after it becomes due and payable, the attorney general, upon the request of the Department, shall bring an action in the name of the State of Washington in the superior court of Thurston County or of any county in which such violator may do business, to recover such penalty. In all such actions the procedure and rules of evidence shall be the same as an ordinary civil action except as otherwise provided in the Forest Practices Act. [Order 263, § 222-46-060, filed 6/16/76.]

WAC 222-46-070 Injunctions, civil suits. (1) **The Department** of Natural Resources, through the attorney general, may take any necessary action to enforce any final order or final decision, or to enjoin any forest practices by any person for a one (1) year period after such person has failed to comply with a final order or a final decision.

(2) **A county** may bring injunctive, declaratory, or other actions for enforcement for forest practice activities within its jurisdiction in the superior court as provided by law against the Department, the forest landowner, timber owner or operator to enforce the Forest Practices Regulations or any final order of the Department or the Appeals Board: *Provided*, That no civil or criminal penalties shall be imposed for past actions or omissions if such actions or omissions were conducted pursuant to an approval or directive of the Department of Natural Resources: *And provided further*, That such actions shall not be commenced unless the Department fails to take appropriate actions after ten (10) days' written notice to the Department by the county of a violation of the Forest Practices Regulations or final orders of the Department or the Appeals Board. [Order 263, § 222-46-070, filed 6/16/76.]

WAC 222-46-080 Criminal penalty. In addition to the penalties imposed pursuant to RCW 76.09.170 of the Act, any person who conducts any forest practice or knowingly aids or abets another in conducting any forest practice in violation of any provisions of RCW 76.09.010 through 76.09.280 or RCW 90.48.420, or these Regulations, shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00), or by imprisonment for a

term of not more than one (1) year or by both fine and imprisonment for each separate violation. Each day upon which violation occurs shall constitute a separate violation. [Order 263, § 222-46-080, filed 6/16/76.]

Chapter 222-50 WAC RELATIONSHIP TO OTHER LAWS AND REGULATIONS

WAC

222-50-010	Policy.
222-50-020	Other agency requirements.
222-50-030	Interagency agreements.
222-50-040	Safety and health.
222-50-050	Forest fire prevention and suppression.
222-50-060	Other regulatory programs administered by the Department.

WAC 222-50-010 Policy. A major policy of the Forest Practices Act and the Board is to work toward a comprehensive, statewide system of laws and regulations for forest practices which avoids unnecessary duplication and provides for interagency input and cooperation to the extent that can be accomplished without interfering with the authority of the affected federal, state, regional and local agencies. [Order 263, § 222-50-010, filed 6/16/76.]

WAC 222-50-020 Other agency requirements. Compliance with certain additional laws and regulations is required. The Department will maintain a list for distribution of State, regional and local regulatory programs that apply to forest practice operations. Affected parties are urged to consult with the specified agencies and independent experts with respect to the regulatory requirements shown on the list.

The Hydraulics Project Approval Law, RCW 75.20-.100 requires all persons, corporations, and governmental entities to obtain an approval from the director of the Departments of Fisheries or Game before doing any work in stream beds of this State. Compliance with the Shoreline Management Act is required, however, within the shorelines as defined in chapter 90.58 RCW the Forest Practices Regulations shall be the sole rules applicable to the performance of forest practices and enforcement thereof shall be solely as provided in the act. As to that road construction which constitutes a substantial development, no permit shall be required under chapter 90.58 RCW for the construction of up to five hundred (500) feet of one and only one road or segment of a road provided such road does not enter the shoreline more than once. Such exemption from said permit requirements shall be limited to a single road or road segment for each forest practice and such road construction shall be subject to the requirements of chapter 76.09 RCW and regulations adopted pursuant thereto and to the prohibitions or restrictions of any master program in effect under the provisions of chapter 90.58 RCW. Nothing in this subsection shall add to or diminish the authority of the Shoreline Management Act regarding road construction except as specifically provided herein. The provisions of this subsection shall not relate to any

road which crosses over or through a stream, lake, or other water body subject to chapter 90.58 RCW.

Nothing in these regulations is intended to interfere with any authority of the Department of Game to protect wildlife under any other statutes or regulations, or under any agreements with landowners. [Order 263, § 222-50-020, filed 6/16/76.]

WAC 222-50-030 Interagency agreements. The Board recommends that the Department negotiate interagency agreements with other governmental agencies with respect to assumption by the Department of responsibility to administer or help administer and to enforce or help enforce other laws and regulations as applied to forest practices on non-federal lands. The Board further recommends that such agreements include, to the extent acceptable to the other agency, provisions specifying:

- (1) The law and regulations covered;
- (2) Any geographical or other limits on the Department's authority and responsibility under the agreement;
- (3) Priorities and standards for resolution of any conflicts between such laws and regulations and the Act and these regulations;
- (4) Procedures for administrative appeals of actions taken by the Department under the agreement;
- (5) Provisions for continuing cooperation between the Department and the other agency or agencies regarding interpretation of the laws and regulations involved; and
- (6) Procedures for termination of the interagency agreement.

The Department is directed to provide copies of all such agreements to the Board and the Advisory Committee for comment, and to make known to the public that such interagency agreements exist. [Order 263, § 222-50-030, filed 6/16/76.]

WAC 222-50-040 Safety and health. The Forest Practices Regulations contained in chapter 222-24 through 222-38 WAC are automatically superseded to the extent inconsistent with any applicable safety regulations, or with any orders or directives having the force of law and based on any applicable safety regulations, including:

- (1) Chapter 296-54 WAC (Safety Standards for Logging Operations, Department of Labor and Industry's Division of Safety).
- (2) Chapter 296-24 WAC (General Safety and Health Standards, Department of Labor and Industry's Division of Safety).
- (3) All applicable Federal Occupational Safety and Health Administration regulations.
- (4) Regarding aircraft, chapters 12-24, 12-28, and 12-32 WAC (Washington Aeronautics Commission).
- (5) Regarding explosives, chapter 296-52 WAC (Department of Labor and Industry) and all applicable federal regulations.
- (6) Regarding chemicals, chapter 16-228 WAC (Department of Agriculture) and all applicable federal regulations.

(7) All applicable state and local sanitation regulations relating to municipal watersheds and sources of domestic water supply.

In such cases of conflict, the Department is authorized to seek from other agencies such waivers or modifications in the applicable safety and health regulations as may be necessary for the Department to be able to fully enforce the Forest Practices Regulations contained in chapters 222-24 through 222-38 WAC.

Applicants are cautioned that there may be additional safety and health laws and regulations that may be applicable in addition to those specifically listed above. [Order 263, § 222-50-040, filed 6/16/76.]

WAC 222-50-050 Forest fire prevention and suppression. All laws and regulations relating to forest fire prevention and suppression apply in addition to these Forest Practices Regulations and, in cases of conflict, supersede the Forest Practices Regulations contained in chapters 222-24 through 222-38 WAC. [Order 263, § 222-50-050, filed 6/16/76.]

WAC 222-50-060 Other regulatory programs administered by the Department. The Board recommends that, to the extent permitted by law and when necessary the Department adopt regulations and policies under which approved applications and notifications can serve to eliminate or reduce the need for separate permits and approvals under regulatory programs administered by the Department (such as the Power Drive Machinery Permits, RCW 76.64.275, Dumping Mill Waste and Forest Debris Permit, RCW 76.04.242, and Surface Mining Permits, chapter 78.44 RCW) as applied to forest practices. The Department is directed to notify the public of the existence of such regulations and policies. [Order 263, § 222-50-060, filed 6/16/76.]