Chapter 222-20 WAC
APPLICATION AND NOTIFICATION PROCEDURES

WAC

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

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. (NOTE: OTHER LAWS AND RULES AND/OR PERMIT REQUIREMENTS MAY APPLY. SEE CHAPTER 222-50 WAC.)

(2) **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.

(3) **Except as provided in subsection (4) of this section, applications and notifications** 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/she is familiar with the Forest Practices Act, including the provisions dealing with conversion to another use (RCW 76.09.060(3)).

(4) In lieu of a landowner's signature, where the timber rights have been transferred by deed to a perpetual owner who is different from the forest landowner, the owner of perpetual timber rights may sign a forest practices application or notification for operations not converting to another use and the statement of intent not to convert for a set period of time. The holder of perpetual timber rights shall serve the signed forest practices application or notification and the signed statement of intent on the forest landowner. The forest practices application shall not be considered complete until the holder of perpetual timber rights has submitted evidence acceptable to the department that such service has occurred.

(5) **Where an application** for a conversion is not signed by the landowner or accompanied by a consent form, as outlined in subsection (3) of this section, the department shall not approve the application. Applications and notifications for the development or maintenance of utility rights of way shall not be considered to be conversions.

(6) **Transfer of the** approved application or notification to a new landowner, timber owner or operator requires written notice by the former landowner or timber owner to the department and should include the original application or notification number. This written notice shall be in a form acceptable to the department and shall contain an affirmation signed by the new landowner, timber owner, or operator, as applicable, that he/she agrees to be bound by all conditions on the approved application or notification. 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 rules 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,** if complete, will be considered officially 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. The department will immediately provide a dated receipt to the applicant. 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.

(a) A review statement from the U.S. Forest Service that evaluates compliance of the forest practices with the Columbia River Gorge National Scenic Area Act (CRGNSA) special management area guidelines is necessary information for an application or notification within the CRGNSA special management area. The review statement requirement shall be waived if the applicant can demonstrate the U.S. Forest Service received a complete plan application and failed to act within forty-five days.

(b) A complete environmental checklist (WAC 197-11-315) is necessary information for all Class IV applications.

(c) A local governmental entity clearing and/or grading permit is necessary information for all Class IV applications on lands that will be converted to a use other than commercial timber operations if the local governmental entity has jurisdiction and has an ordinance requiring such permit.

(d) A checklist road maintenance and abandonment plan is necessary information for all small forest landowners' applications or notifications for timber harvest (including salvage), unless exempt under WAC 222-24-0511, or unless the application is a small forest landowner long-term application which requires a roads assessment.

(8) **An operator's name,** if known, must be included on any forest practices application or notification. The landowner or timber owner must provide notice of hiring or change of operator to the department within forty-eight hours. The department shall promptly notify the landowner if the operator is subject to a notice of intent to disapprove under WAC 222-46-070. Once notified, the landowner will not permit the operator, who is subject to a notice of intent to disapprove, to conduct the forest practices specified in the application or notification, or any other forest practices until such notice of intent to disapprove is removed by the department.

(9) **Financial assurances** may be required by the department prior to the approval of any future forest practices application or notification to an operator or landowner under the provisions of WAC 222-46-090.

[Statutory Authority: RCW 76.09.040 and 76.09.370. 13-01-007, § 222-20-010, filed 12/6/12, effective 1/6/13. Statutory Authority: RCW 76.09.040, 76.09.010 (2)(d). 07-20-044, § 222-20-010, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 76.09.040. 06-11-112, § 222-20-010, filed 5/18/06, effective 6/18/06; 05-12-119, § 222-20-010, filed 5/31/05, effective 7/1/05. Statutory Authority: Chapter 34.05 RCW, RCW 76.09.040, [76.09.]050, [76.09.]370, 76.13.120(9). 01-12-042, § 222-20-010, filed 5/30/01, effective 7/1/01. Statutory Authority: RCW 76.09.040 and chapter 34.05 RCW. 98-07-047, § 222-20-010, filed 3/13/98, effective 5/1/98; 93-12-001, § 222-20-010, filed 5/19/93, effective 6/19/93. Statutory Authority: RCW 76.09.040, 76.09.050 and 34.05.350. 91-23-052, § 222-20-010, filed 11/15/91, effective 12/16/91. Statutory Authority: RCW 76.09.040. 87-23-036 (Order 535), § 222-20-010, filed 11/16/87, effective 1/1/88; 82-18-053 (Resolution No. 82-2), § 222-20-010, filed 8/31/82. Statutory Authority: RCW 76.09.040 and 76.09.050. 82-16-077 (Resolution No. 82-1), § 222-20-010, filed 8/3/82, effective 10/1/82; Order 263, § 222-20-010, filed 6/16/76.]

WAC 222-20-015 Multiyear permits. Landowners may apply for multiyear permits to conduct forest practices for four or five years in the following situations:

(1) Where a watershed analysis has been approved for a WAU under WAC 222-22-080, a landowner may apply for a multiyear permit. The information provided and level of detail for the application must be comparable to that required for a three-year permit. At a minimum, the applications for these permits must include:

(a) A description of the forest practices to be conducted during the period requested for the permit, and a map(s) showing their locations; and

(b) Prescriptions must be identified where operations are proposed within or include areas of resource sensitivity.

(2) Where a road maintenance and abandonment plan (other than a checklist road maintenance and abandonment plan) has been approved under WAC 222-24-051, a landowner may apply for a multiyear permit to perform road maintenance, road abandonment, and/or associated right of way timber harvest, if the schedule for implementing the plan is longer than three years.

(3) Where an alternate plan has been approved under WAC 222-12-0401, a landowner may apply for a multiyear permit to perform the activities in the alternate plan.

[Statutory Authority: RCW 76.09.040 and 76.09.370. 13-01-007, § 222-20-015, filed 12/6/12, effective 1/6/13. Statutory Authority: RCW 76.09.040, 76.09.010 (2)(d). 07-20-044, § 222-20-015, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 76.09.040. 06-11-112, § 222-20-015, filed 5/18/06, effective 6/18/06. Statutory Authority: Chapter 34.05 RCW, RCW 76.09.040, [76.09.]050, [76.09.]370, 76.13.120(9). 01-12-042, § 222-20-015, filed 5/30/01, effective 7/1/01.]

WAC 222-20-016 Small forest landowner long-term applications. (1) **Application.** A small forest landowner may submit a forest practices application that includes planned forest practices activities on all or part of a landowner's ownership within one of the department's geographic region boundaries. The application can be for terms of four to fifteen years at the discretion of the landowner. The landowner will submit the application to the department in two steps.

(2) **Review of proposed application.**

(a) **Step 1: Resource and roads assessment review.** The landowner will submit the resource and roads assessment portion of the application. As part of the review, the department will determine any additional known resources or threats to public safety and initiate one or more site reviews in consultation with the department of ecology, the department of fish and wildlife, and the affected Indian tribes. The department will notify the landowner and the landowner's representative to attend the site review(s). Within forty-five days of receiving the complete assessment, the department will notify the landowner in writing of its validation or rejection of the assessment. If rejected, the department will provide a written statement to the landowner explaining why the assessment was rejected.

(b) **Step 2: Resource protection strategies review.** The department will accept for review the resource protection strategies portion of the long-term application after the department validates Step 1. The required elements of Step 2 will include a description of proposed forest practices activities and strategies for protection of all resources identified in Step 1. The department will approve, condition, or disapprove Step 2 within forty-five days of receiving the complete Step 2 portion, except if a detailed environmental statement is necessary, additional time for approval or disapproval as specified in RCW 76.09.050 will be required. If disapproved, the department will provide a written statement to the landowner explaining why the proposed strategies were disapproved.

(3) **Activity notice.** At least five business days before a landowner starts an approved forest practices activity the landowner will submit to the department an activity notice in a format acceptable to the department.

(4) **Amendments to long-term applications.**

(a) The department may authorize nonsubstantial amendments as authorized in WAC 222-20-060.

(b) If the board considers new or amended rules to achieve resource protection objectives, the department and the board will do the following regarding existing approved long-term applications:

(i) The department, in consultation with the departments of ecology, fish and wildlife, and affected Indian tribes will review, and if necessary analyze the effects of approved long-term applications on the public resources the proposed rules are intended to protect.

(ii) The department will report the results of its review and/or analysis to the board prior to rule adoption.

(iii) Upon rule adoption, the board may direct the department to condition existing approved long-term applications to protect resources.

(iv) The department will notify impacted landowners in writing of the board's decision.

[Statutory Authority: RCW 76.09.040 and 76.09.370. 13-01-007, § 222-20-016, filed 12/6/12, effective 1/6/13. Statutory Authority: RCW 76.09.040, 76.09.010 (2)(d). 07-20-044, § 222-20-016, filed 9/26/07, effective 10/27/07.]

WAC 222-20-020 Application time limits. (1) **When the department officially receives an application,** the department will approve, condition or disapprove it within thirty calendar days for Class III and Class IV forest practices, except:

(a) To the extent the department is prohibited from approving the application by the act.

(b) For Class IV applications when the department or the lead agency has determined that a detailed environmental statement must be made, the application must be approved, conditioned or disapproved within sixty 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 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 described in (c)(i), (ii) or (iii) of this subsection, the applicable time limit shall be no less than fourteen business days from transmittal to the local governmental entity unless the local governmental entity has waived its right to object or has consented to approval of the application:

(i) Lands that are being converted to another use;

(ii) Lands that will not be reforested because of likelihood of future conversion to urban development (see WAC 222-16-060 and 222-20-050); or

(iii) Forest practices involving timber harvesting or road construction on lands that are contained within urban growth areas, designated pursuant to chapter 36.70A RCW.

(d) Applications for multiyear permits will be approved, conditioned, or disapproved within forty-five days of the department receiving a complete application, except if a detailed environmental statement is necessary, additional time for approval or disapproval as specified in RCW 76.09.050 will be required.

(e) Small forest landowner long-term applications will be reviewed in two steps as described in WAC 222-20-016. The department will review Step 1 and issue a decision within forty-five days of receiving a complete resource and roads assessment. The department will review and approve, condition, or disapprove Step 2 within forty-five days of receiving a complete resource protection strategies portion of the long-term application, except if a detailed environmental statement is necessary, additional time for approval or disapproval as specified in RCW 76.09.050 will be required.

(2) **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 rules, 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 days from receipt by the department of the notification.

(3) **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 except that this provision shall not apply where:

(a) The local governmental entity objects and the application involves lands that are being converted to a use other than commercial timber operations where the local governmental entity's right of objection is fourteen business days which may be longer than the approval time limit.

(b) The department is prohibited from approving the application by the act.

(c) Compliance with the State Environmental Policy Act requires additional time.

(4) **If seasonal field** conditions prevent the department from being able to properly evaluate the application, the department may disapprove the application until field conditions allow for an on-site review.

[Statutory Authority: RCW 76.09.040 and 76.09.370. 13-01-007, § 222-20-020, filed 12/6/12, effective 1/6/13. Statutory Authority: RCW 76.09.040, 76.09.010 (2)(d). 07-20-044, § 222-20-020, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 76.09.040. 05-12-119, § 222-20-020, filed 5/31/05, effective 7/1/05. Statutory Authority: Chapter 34.05 RCW, RCW 76.09.040, [76.09.]050, [76.09.]370, 76.13.120(9). 01-12-042, § 222-20-020, filed 5/30/01, effective 7/1/01. Statutory Authority: RCW 76.09.040. 87-23-036 (Order 535), § 222-20-020, filed 11/16/87, effective 1/1/88. Statutory Authority: RCW 76.09.040 and 76.09.050. 82-16-077 (Resolution No. 82-1), § 222-20-020, filed 8/3/82, effective 10/1/82; 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 to the department at the appropriate region office. Notifications and applications actually received at the appropriate region office by other means may be accepted or returned to the applicant.

(2) **Upon delivery of** a complete notification or application the department will provide a written receipt to the landowner, timber owner, and operator.

(3) **Each receipt will** indicate the file number assigned to the notification or application.

[Statutory Authority: RCW 76.09.040, 76.09.010 (2)(d). 07-20-044, § 222-20-030, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 76.09.040. 88-19-112 (Order 551, Resolution No. 88-1), § 222-20-030, filed 9/21/88, effective 11/1/88; Order 263, § 222-20-030, filed 6/16/76.]

WAC 222-20-040 Approval conditions. (1) **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 depart-

ment, the applicant shall, when requested on the approved application, notify the department two business days before the commencement of actual operations.

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

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

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

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

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

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

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

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

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

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

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

(ii) The location and design of roads;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

vides for interagency input and intergovernmental and tribal coordination and cooperation, considers reasonable land use planning goals contained in the CRGNSA management plan, and fosters cooperation among public resources managers, forest landowners, tribes and the citizens.

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

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

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

WAC 222-20-050 Conversion of forest land to nonforest use. (1) If an application to harvest signed by the landowner indicates that within three years after completion, the forest land will be converted to a specified active use that is incompatible with a use other than commercial timber operations, the reforestation requirements of chapter 222-34 WAC shall not apply, and the information relating to reforestation on the application form need not be supplied. However, if the specified active use is not initiated within three years after the harvest is completed, the reforestation requirements shall apply and reforestation shall be completed within one additional year.

(2) If a landowner who did not state an intent to convert decides to convert to a nonforestry use within six years of receiving an approved forest practices application or notification, the landowner must:

(a) Stop all forest practices activities on the parcels subject to conversion;

(b) Contact the department of ecology and the applicable local governmental entity to begin the permitting process; and

(c) Notify the department and withdraw any related applications or notifications, or request a new application for conversion.

Upon request from the local governmental entity, the department will provide the status of the landowner's related applications and notifications, and any final orders or decisions.

[Statutory Authority: RCW 76.09.040 and 76.09.370. 13-01-007, § 222-20-050, filed 12/6/12, effective 1/6/13. Statutory Authority: RCW 76.09.040. 10-23-077, § 222-20-050, filed 11/15/10, effective 12/16/10. Statutory Authority: RCW 76.09.040, 76.09.010 (2)(d). 07-20-044, § 222-20-050, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 76.09.040. 05-12-119, § 222-20-050, filed 5/31/05, effective 7/1/05. Statutory Authority: Chapter 34.05 RCW, RCW 76.09.040, [76.09.]050, [76.09.]370, 76.13.120(9). 01-12-042, § 222-20-050, filed 5/30/01, effective 7/1/01. Statutory Authority: RCW 76.09.040, 76.09.050 and 34.05.350. 91-23-052, § 222-20-050, filed 11/15/91, effective 12/16/91; Order 263, § 222-20-050, filed 6/16/76.]

WAC 222-20-051 Conversion option harvest plans. (1) For Class II, III, and IV-special forest practices, if a landowner wishes to maintain the option to convert forest land to a use other than commercial timber operations, the landowner may request the appropriate local governmental entity to approve a conversion option harvest plan.

(2) If a local governmental entity approves a plan, the landowner must attach it to the forest practices application or notification.

(3) The plan will be a condition of the approved application or notification.

(4) Violation of the plan will result in the development prohibitions or the conditions described in RCW 76.09.460.

(5) Reforestation requirements will not be waived regardless of the existence of a conversion option harvest plan.

[Statutory Authority: RCW 76.09.040 and 76.09.370. 13-01-007, § 222-20-051, filed 12/6/12, effective 1/6/13.]

WAC 222-20-052 Notice of conversion to nonforestry use. (1) Under the provisions of RCW 76.09.060 (3)(b), if harvest takes place without an approved application or notification, or the landowner did not state that any land covered by the application or notification is intended to be converted to a use other than commercial timber operations, then the department and the appropriate local governmental entity will follow the process described in subsections (2) and (3) of this section.

(2) When the department or local governmental entity becomes aware of conversion activities the department will send to the department of ecology and the appropriate local governmental entities the following documents:

(a) A notice of conversion to nonforestry use;

(b) A copy of the applicable forest practices application or notification, if any; and

(c) Copies of any applicable outstanding final orders or decisions issued by the department related to the forest practices application or notification.

(3) When a local governmental entity receives a notice of conversion to a nonforestry use from the department, it will follow the requirements of RCW 76.09.460.

(4) A notice of a conversion to a nonforestry use issued by the department under the provisions of RCW 76.09.060 (3)(b) and this section may be appealed to the appeals board in accordance with RCW 43.21B.110 and 43.21B.230.

[Statutory Authority: RCW 76.09.040 and 76.09.370. 13-01-007, § 222-20-052, filed 12/6/12, effective 1/6/13.]

WAC 222-20-055 Continuing forest land obligations. Continuing forest land obligations include reforestation, road maintenance and abandonment plans, and harvest strategies on perennial nonfish habitat waters in Eastern Washington. This section does not apply to small forest landowner checklist road maintenance and abandonment plans.

(1) Prior to the sale or transfer of land or perpetual timber rights subject to continuing forest land obligations under the Forest Practices Act and rules, the seller must notify the buyer of the existence and nature of such a continuing obligation and the buyer must sign a notice of continuing forest land obligation indicating the buyer's knowledge of the obligations. The notice must be:

(a) On a form prepared by the department;

(b) Sent to the department by the seller at the time of sale or transfer of land or perpetual timber rights; and

(c) Retained by the department.

(2) If the seller fails to notify the buyer about the continuing forest land obligation, the seller must pay the buyer's costs related to continuing forest land obligations, including all legal costs and reasonable attorneys' fees incurred by the buyer in enforcing the continuing forest land obligation against the seller.

(3) Failure by the seller to send the required notice to the department at the time of sale will be prima facie evidence in an action by the buyer against the seller for costs related to the continuing forest land obligation prior to sale.

[Statutory Authority: RCW 76.09.040. 06-11-112, § 222-20-055, filed 5/18/06, effective 6/18/06. Statutory Authority: Chapter 34.05 RCW, RCW 76.09.040, [76.09.]050, [76.09.]370, 76.13.120(9). 01-12-042, § 222-20-055, filed 5/30/01, effective 7/1/01.]

WAC 222-20-060 Deviation from prior application or notification. Substantial deviation from a notification or an approved application requires a new 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 fish and wildlife, and ecology, and affected Indian tribes and the appropriate local governmental entity 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.

[Statutory Authority: RCW 76.09.040, 76.09.010 (2)(d). 07-20-044, § 222-20-060, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 76.09.040. 05-12-119, § 222-20-060, filed 5/31/05, effective 7/1/05. Statutory Authority: RCW 76.09.040 and chapter 34.05 RCW. 97-24-091, § 222-20-060, filed 12/3/97, effective 1/3/98. Statutory Authority: RCW 76.09.040. 87-23-036 (Order 535), § 222-20-060, filed 11/16/87, effective 1/1/88; 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, windstorm, earthquake, structural failure or other catastrophic event. Within 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 rules: 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.

[Statutory Authority: Chapter 34.05 RCW, RCW 76.09.040, [76.09.]050, [76.09.]370, 76.13.120(9). 01-12-042, § 222-20-070, filed 5/30/01, effective 7/1/01; Order 263, § 222-20-070, filed 6/16/76.]

WAC 222-20-075 *Exotic forest insect or disease outbreaks. Forest practices applications or notifications are not required for forest practices conducted to control exotic forest insect or disease outbreaks, when conducted by or under the direction of the department of agriculture in carrying out an order of the governor or director of the state department of agriculture to implement pest control measures as authorized under chapter 17.24 RCW, and are not required when conducted by or under the direction of the department in carrying out emergency measures under a forest health emergency declaration by the commissioner of public lands as provided in RCW 76.06.130.

(1) For the purposes of this section, exotic forest insect or disease has the same meaning as defined in RCW 76.06.020.

(2) In order to minimize adverse impacts to public resources, control measures must be based in integrated pest management, as defined in RCW 17.15.010, and must follow forest practices rules relating to road construction and maintenance, timber harvest, and forest chemicals, to the extent possible without compromising control objectives.

(3) Forest lands where trees have been cut as part of an exotic forest insect or disease control effort under this subsection are subject to reforestation requirements under RCW 76.09.070.

(4) The exemption from obtaining approved forest practices applications or notifications does not apply to forest practices conducted after the governor, the director of the department of agriculture, or the commissioner of public lands has declared that an emergency no longer exists because control objectives have been met, that there is no longer an imminent threat, or that there is no longer a good likelihood of control.

(5) Nothing under this section relieves agencies conducting or directing control efforts from requirements of the federal Clean Water Act as administered by the department of ecology under RCW 98.48.260.

[Statutory Authority: RCW 76.09.040. 05-12-119, § 222-20-075, filed 5/31/05, effective 7/1/05.]

WAC 222-20-080 Application and notification expiration. (1) The approval given by the department to an application to conduct a forest practice shall be effective for a term of three years from the date of approval, with the following exceptions:

(a) Multiyear permits are effective for four or five years.

(b) Small forest landowner long-term applications are effective for terms of four to fifteen years.

(2) A notification is effective for a term of three years beginning five days from the date it is officially received.

(3) An application or notification may be renewed for one additional three-year term by submitting a renewal in a form acceptable to the department.

[Statutory Authority: RCW 76.09.040 and 76.09.370. 13-01-007, § 222-20-080, filed 12/6/12, effective 1/6/13. Statutory Authority: RCW 76.09.040. 11-12-009, § 222-20-080, filed 5/20/11, effective 6/20/11. Statutory Authority: RCW 76.09.040, 76.09.010 (2)(d). 07-20-044, § 222-20-080, filed 9/26/07, effective 10/27/07. Statutory Authority: Chapter 34.05 RCW, RCW 76.09.040, [76.09.]050, [76.09.]370, 76.13.120(9). 01-12-042, § 222-20-080, filed 5/30/01, effective 7/1/01. Statutory Authority: RCW 76.09.060, 76.09.040 and chapter 34.05 RCW. 92-23-056, § 222-20-080, filed 11/17/92, effective 12/18/92; Order 263, § 222-20-080, filed 6/16/76.]

WAC 222-20-090 Options for filing applications. Applicants may schedule an early review of a proposed application with the department prior to official filing, or submit an application with a delayed effective date. Such early review or submission will allow the department to review multiple applications and bring other forest practices concerns to the attention of the applicant so that such concerns can be addressed prior to official filing and processing of an application. When submitting an application with a delayed effective date, the applicant shall indicate the date when approval is desired.

[Statutory Authority: RCW 76.09.040. 87-23-036 (Order 535), § 222-20-090, filed 11/16/87, effective 1/1/88; Order 263, § 222-20-090, filed 6/16/76.]

WAC 222-20-100 Notice to parks and DAHP. (1) **Notice to parks.** The department shall send to the affected agency, within two business days of receipt, a copy of any notification or application for forest practices within five hundred feet of the boundary of any park entity registered according to subsection (2) of this section.

(2) **Parks register.** The department shall establish and update every five years a parks register listing all publicly owned parks where the affected owner has filed a written request with the department for inclusion on such register. The department shall notify owners of all public parks inventoried on the state comprehensive outdoor recreation plan (SCORP) of the opportunity to register.

(3) **DNR to provide information to DAHP.** The department shall provide the department of archaeology and historic preservation (DAHP) with copies of all applications and notifications for forest practices to be conducted on lands known to contain historic sites or archaeological resources as identified by DAHP.

[Statutory Authority: RCW 76.09.040, 76.09.010 (2)(d). 07-20-044, § 222-20-100, filed 9/26/07, effective 10/27/07. Statutory Authority: Chapter 34.05 RCW, RCW 76.09.040, [76.09.]050, [76.09.]370, 76.13.120(9). 01-12-042, § 222-20-100, filed 5/30/01, effective 7/1/01. Statutory Authority: RCW 76.09.040. 87-23-036 (Order 535), § 222-20-100, filed 11/16/87, effective 1/1/88. Statutory Authority: RCW 76.09.040 and 76.09.050. 82-16-077 (Resolution No. 82-1), § 222-20-100, filed 8/3/82, effective 10/1/82.]

WAC 222-20-110 Notice of forest practices to cities and towns. The department shall establish and update every 5 years a register listing all incorporated cities and towns which have filed a written request for inclusion on such register. The department shall provide to those listed on the register, copies of all applications and notifications for forest practices on lands within the legal boundaries of the city or town.

[Statutory Authority: RCW 76.09.040 and 76.09.050. 82-16-077 (Resolution No. 82-1), § 222-20-110, filed 8/3/82, effective 10/1/82.]

WAC 222-20-120 Notice of forest practices that may contain cultural resources to affected Indian tribes. (1) The department shall notify affected Indian tribes of all applications in geographic areas of interest that have been identified by such tribes, including those areas that may contain cultural resources.

(2) Where an application is within a tribe's geographic area of interest and contains cultural resources the landowner, at the tribe's discretion, shall meet with the affected tribe(s) prior to the application decision due date with the objective of agreeing on a plan for protecting the archaeological or cultural value.

(3) The department will consider the requirements in subsection (2) of this section complete if prior to the application decision due date:

(a) The landowner meets with the tribe(s) and notifies the department that a meeting took place and whether or not there is agreement on a plan. The department shall confirm the landowner's information with the tribe(s); or

(b) The department receives written notice from the tribe(s) that the tribe(s) is declining a meeting with the landowner; or

(c) The tribe(s) does not respond to the landowner's attempts to meet and the landowner provides to the department:

(i) Written documentation of telephone or e-mail attempts to meet with the tribe's designated cultural resources contact for forest practices; and

(ii) A copy of a certified letter with a signed return receipt addressed to the tribe's cultural resources contact for forest practices requesting a meeting with the tribe; or

(d) The department receives other acceptable documentation.

(4) The department may condition the application in accordance with the plan.

[Statutory Authority: RCW 76.09.040. 12-05-083, § 222-20-120, filed 2/17/12, effective 3/19/12. Statutory Authority: RCW 76.09.040, 76.09.010 (2)(d). 07-20-044, § 222-20-120, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 76.09.040. 87-23-036 (Order 535), § 222-20-120, filed 11/16/87, effective 1/1/88.]

WAC 222-20-130 Notice and administration in CRGNSA special management area. The department shall administer the permitting process for all forest practices on forest land in the CRGNSA special management area. For all applications and notifications within the CRGNSA special management area, the department shall send copies of a satisfactorily completed application or notification, including the U.S. Forest Service review statement, to the county in which the forest practices are to be commenced, the Columbia River Gorge commission, the U.S. Forest Service, the Yakama Indian Nation, and any interested parties that have requested to receive copies.

[Statutory Authority: RCW 76.09.040 and chapter 34.05 RCW. 98-07-047, § 222-20-130, filed 3/13/98, effective 5/1/98.]