

WAC 222-23-020 Submitting and processing of applications for the rivers and habitat open space program. (1) **Rivers and habitat open space application.** An owner or owners of qualifying lands may apply to the department to place the qualifying CMZ lands or qualifying critical habitat lands within the program. The department will accept or reject the program application based on eligibility for an easement acquisition. The application for the program shall be in writing on a form provided by the department. The application shall contain information the department determines is necessary to assess whether the land qualifies for the program, as well as the following information (see board manual section 18 for details):

(a) A description of the methods the landowner used to propose that the land meets the eligibility for easement acquisition criteria;

(b) A statement indicating the landowner's desire to place the land covered by the application within the program and whether the landowner wishes to grant a conservation easement to the state on both land and trees or in trees only;

(c) Whether the landowner wishes to receive the statutory compensation for the conveyance or wishes to donate the qualifying lands;

(d) Whether the landowner is aware of the presence of any hazardous substances on the lands;

(e) A statement affirming that the person or persons submitting the application stating they are the landowner and believes that the information contained in the application and its supporting materials is true and complete.

(2) **Review and processing of application.** The application process will follow the program funding cycle process described in board manual section 18. After the department receives a complete and accurate application for the program, the department will make a preliminary determination whether the application is eligible for the easement acquisition. This determination is subject to the department's complete review, and subsequent confirmation of all information required for the program and identification of qualifying lands. After the preliminary determination of eligibility, the following shall occur:

(a) The landowner, in cooperation with the department, shall delineate on the ground the boundary line of the qualifying lands as indicated in the application;

(b) The department shall verify the appropriateness of the delineation of qualifying lands using the procedure outlined in board manual section 18, make a final determination whether there are any unacceptable liabilities on the lands proposed for inclusion in the program, and communicate the foregoing to the landowner.

(c) The department will rate, rank, and fund, as described in WAC 222-23-025(1), the eligible applications for each category of qualifying CMZ lands or critical habitat lands and for each funding cycle using a standardized scoring system.

(d) The department will prepare a combined preliminary project priority list, after evaluation and scoring of all applications.

(e) The department will submit the preliminary project priority list to the state legislature for budget consideration.

(f) The department will notify the applicant in writing of the funding decision for their application, subject to available funding from the legislature.

(g) For those applications determined to be funded, and if the department determines there are no unacceptable liabilities on the lands, the department shall follow the guidelines in WAC 222-23-030(2)

and the landowner shall enhance the boundary (as verified) using boundary marking methods specified by the department.

(h) For those applications determined to be eligible but not funded, the application will be returned to the applicant. At any time thereafter, the applicant may resubmit the application with or without revision. This resubmitted application will be placed on the next available funding cycle and will be reprioritized under the process described in (c) through (g) of this subsection.

(i) For those applications determined to be ineligible for reasons other than funding, the department must notify the landowner of the reason(s) and the application will be rejected.

(j) Once the landowner completes the boundary enhancement required in (g) of this subsection, the department shall:

(i) Perform a traverse of the boundary of the qualifying lands;

(ii) Conduct and finalize a cruise of the timber on the qualifying lands;

(iii) Determine the statutory compensation to be paid to the landowner;

(iv) Prepare conveyance documents consistent with this chapter; and

(v) Prepare any other documents necessary for closing and recording the conveyance, including without limitation a real estate excise tax affidavit.

(3) **Timber cruise.** For the purpose of determining the compensation, a timber cruise will be conducted by the department using a cruiser acceptable to the department and the landowner, using a cruise methodology determined by the department and sampling intensity acceptable to both parties. The department will provide the cruise data to the landowner. Within thirty days thereafter, the landowner shall advise the department whether the cruise results are acceptable. The landowner or the department may, at their option, perform a check cruise.

(4) **Compensation for conveyances.** RCW 76.09.040(3) specifies the compensation the department shall pay for the conveyance of a conservation easement under this chapter, unless the landowner chooses to donate the conservation easement. The department will calculate compensation based on stumpage and land use value tables described in (a) and (b) of this subsection. The tables applied will be those in effect as of the date the complete timber cruise is received by the department for new or resubmitted applications.

(a) For conveyances of a conservation easement in which the landowner conveys an interest in the trees only, the compensation shall only include the timber value component, as determined by the cruise volume multiplied by the appropriate stumpage value for timber of the same species shown on the appropriate table used for timber harvest excise tax purposes under RCW 84.33.091.

(b) For conveyances of a conservation easement in which the landowner conveys interests in both land and trees, the compensation shall include the timber value component plus such portion of the land value component as determined just and equitable by the department. The timber value component will be as set forth in (a) of this subsection. The land value component must be the acreage of qualifying lands to be conveyed, multiplied by the average per acre value. The department shall determine the averages based on the land value tables established by RCW 84.33.140 and revised annually by the department of revenue with separate values for western and eastern Washington.

(5) **Qualifying lands.** The lands proposed in an application must include qualifying CMZ lands or qualifying critical habitat lands that are eligible for easement acquisition as follows:

(a) Qualifying lands are lands that, once a complete application is received, are identified in records of the applicable county assessor as being assessed and taxed either under chapter 84.33 RCW as designated forest land or under chapter 84.34 RCW as current use classification timber land or open space.

(b) Qualifying lands are lands owned by an individual, partnership, corporation or other nongovernmental entity.

(c) Lands do not qualify for the program where the department has determined that:

(i) The lack of access to the land is likely to materially impair the department's ability to administer the program with respect to the land;

(ii) The land is subject to unacceptable liabilities. See WAC 222-23-010 (2)(c).

[Statutory Authority: RCW 76.09.040. WSR 11-12-009, § 222-23-020, filed 5/20/11, effective 6/20/11; WSR 05-12-119, § 222-23-020, 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). WSR 01-12-042, § 222-23-020, filed 5/30/01, effective 7/1/01.]