



# PROPOSED RULE MAKING

## CR-102 (August 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: September 07, 2017

TIME: 3:57 PM

WSR 17-19-016

**Agency:** Forest Practices Board

**Original Notice**

**Supplemental Notice to WSR** \_\_\_\_\_

**Continuance of WSR** \_\_\_\_\_

**Preproposal Statement of Inquiry was filed as WSR** 17-07-109 ; or

**Expedited Rule Making--Proposed notice was filed as WSR** \_\_\_\_\_ ; or

**Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).**

**Proposal is exempt under RCW** \_\_\_\_\_.

**Title of rule and other identifying information:** (describe subject) Electronic Business System rule making will amend WAC 222-20-010 and WAC 222-20-030

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
January 4, 2018	4:30 p.m.	Room 172, Natural Resources Building, 1111 Washington Street SE, Olympia	

**Date of intended adoption:** February 14, 2018 (Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: Patricia Anderson

Address: P.O. Box 47012

Email: forest.practicesboard@dnr.wa.gov

Fax: 360.902.1428

Other:

By (date) 5 p.m. on January 5, 2018

**Assistance for persons with disabilities:**

Contact Forest Practices Division

Phone: 360.902.1400

Fax:

TTY:

Email:

Other:

By (date) December 18, 2017

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The Board is amending its rules to create a placeholder for an electronic business portal that will allow for electronic submission of a Forest Practices Application along with an electronic signature and payment method. This will be an additional method for submission to either certified mail or hand delivery to a region office.

**Reasons supporting proposal:** Providing the ability to electronically submit Forest Practices Applications, signatures and payment will benefit prospective applicants seeking the option to do so. In some cases, this may decrease transaction times and reduces costs associated with printing and travel time to deliver to a region office.

**Statutory authority for adoption:** RCW 19.360.010 and RCW 76.09.040

**Statute being implemented:** RCW 76.09.060 and RCW 19.360.010

**Is rule necessary because of a:**

Federal Law?  Yes  No  
Federal Court Decision?  Yes  No  
State Court Decision?  Yes  No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None.

**Name of proponent:** (person or organization) Forest Practices Board  Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Marc Engel	1111 Washington Street SE, Olympia	360.902.1390
Implementation:	Donelle Mahan	1111 Washington Street SE, Olympia	360.902.1405
Enforcement:	Joe Shramek	1111 Washington Street SE, Olympia	360.902.1398

**Is a school district fiscal impact statement required under RCW 28A.305.135?**  Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:  
Name: Patricia Anderson  
Address: P.O. Box 47012  
Phone: 360.902.1413  
Fax:  
TTY:  
Email: forestpractices.board@dnr.wa.gov  
Other:

No: Please explain:

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW \_\_\_\_.

Explanation of exemptions, if necessary:


**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated. \_\_\_\_\_
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: Patricia Anderson  
 Address: P.O. Box 47012  
 Phone: 360.902.1413  
 Fax:  
 TTY:  
 Email: forestpractices.board@dnr.wa.gov  
 Other:

<b>Date:</b> August 9, 2017	<b>Signature:</b> 
<b>Name:</b> Stephen Bernath	
<b>Title:</b> Chair	

**WAC 222-20-030 Delivery of notifications and applications—Receipts—File numbers.** (1) **Notifications and applications** (~~should~~) shall be delivered to the department by mail or personal delivery at the appropriate region office, or electronically when the department develops an electronic business system. 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.

**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 notifications and applications. The department shall specify the information required for a notification, and the information required for the department to approve or disapprove an 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 if the operator is known at the time the application is submitted. Electronic signatures may be accepted when the department develops an electronic business system.

(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, 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) **The landowner or timber owner must provide notice of hiring or change of operator** to the department within forty-eight hours of the change. 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.

(8) **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~~) date of personal delivery, or (~~at the time~~) on the date of receipt by general mail delivery, or on the date of electronic receipt when the department develops an electronic business system. 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.

(9) **Where potentially unstable slopes or landforms are in or around the area of an application**, the department may require the landowner to provide additional information in order to classify the application appropriately. If necessary, the department may require additional geologic information prepared by a qualified expert. The department may request that the qualified expert explain the methods the qualified expert used to evaluate the proposed harvest or construction activities with respect to the potentially unstable slopes or landforms. Nothing in this subsection is intended to require a geotechnical report if the geologic information provided is sufficient to appropriately classify the application.

(a) "Qualified expert" is defined in WAC 222-10-030.

(b) "Potentially unstable slopes or landforms" are those listed in WAC 222-16-050 (1)(d)(i)(A) through (E).

(10) **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.