

# Forestry Riparian Easement Program

## Application and Program Information

### GENERAL INFORMATION

The Forestry Riparian Easement Program compensates small forest landowners for timber the landowner is required to leave unharvested as a result of Washington's Forest Practices Rules. In exchange, landowners must grant the state of Washington a 40-year easement on the "qualifying timber" [WAC 222-21-010(7)]. Qualifying timber must be adjacent to a harvest; in a riparian management zone (RMZ) or channel migration zone (CMZ); located on unstable slopes; or meet the criteria for "uneconomic to harvest"<sup>1</sup>.

The State's interest in the easement is limited to the timber and its function as riparian habitat. The easement does not allow the State to grant the public access to the land, remove trees or limit the use of the land within the easement, other than to deny activities that would cause damage to either the trees or their riparian function. Occasional access to the property will be needed by the Washington State Department of Natural Resources (DNR) staff in order to ensure and enforce compliance with the terms of the easement.

Landowners retain ownership of, and full access to, the property during the term of the easement but are prohibited from cutting, removing or damaging the timber within the easement. Any qualifying timber in the easement that falls as a result of natural causes must be left in place and not salvaged. However, if the downed trees present a nuisance factor such as blocking a road, they may be moved out of the way and into the easement. If salvage is the only option, the landowner must get permission from, and pay reimbursement to, the State the state.

During the first ten years the Forestry Riparian Easement is in place, a landowner's ability to sell the land within the easement is limited to buyers that meet the conditions of a qualifying small forest landowner<sup>2</sup>. Failure to meet those conditions will require the landowner to return all of the compensation originally received from the State.

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<sup>1</sup> Trees that are not within an RMZ, CMZ, or located on unstable slopes but could have been included in a commercially reasonable harvest unit if: 1) there were no additional requirements imposed by the forests and fish rules; 2) the trees were not reasonably accessible economically because of requirements imposed by the forests and fish rules; 3) there was no reasonable unit size alternative which would make the area economical to harvest; and 4) the cost to access the harvest unit plus the cost to harvest would equal or exceed thirty-five percent of the stumpage value in the portion of the unit considered uneconomic [WAC 222-21-032(6)].

<sup>2</sup> An individual, partnership, corporation, or other nongovernmental for-profit legal entity that: 1) has legal right to harvest the timber associated with the application; 2) does not have an outstanding Forest Practices rules violation; 3) has harvested no more than two million board feet of timber/year from the property in the three years prior to the date of the application; and 4) can certify they will not harvest more than two million board feet of timber per year in the ten years after the date of the application [WAC 222-21-010(6)].

## **PROGRAM ELIGIBILITY**

To be considered for the program, qualifying small forest landowners must have submitted a Forest Practices Application and completed the timber harvest, unless a harvest is not possible because of restrictions under the rules. The application must include the timber where harvest cannot be accomplished because of a forest practices rule or where timber meets the definition of uneconomic to harvest. Only the area indicated in the Forest Practices Application Activity Map will be considered for the easement.

Only the landowner that harvested the timber is eligible for a Forestry Riparian Easement. If the land is sold before the easement transaction occurs, the application is no longer valid and neither the old or new landowner are eligible for the proposed easement. All persons holding rights to the property must agree in writing to the terms of the easement unless otherwise provided through a Subordination Agreement<sup>3</sup>.

Additional eligibility requirements are as follows:

- The proposed easement area must be immediately adjacent to the harvest area.
- The proposed easement area cannot contain unacceptable liabilities.
- Harvest cannot result in the land being converted to non-timber uses.
- The value of the harvested timber must equal or exceed one thousand dollars (\$1,000.00).
- For areas of potentially unstable slopes or landforms to be eligible as qualifying timber, a geotechnical report is required to have been submitted with the forest practices application/s associated with the easement application. The cost of the portion of the report that assists in identification of qualifying timber is reimbursable by the State.

*For more information regarding eligibility criteria, easement value determination, and uneconomic to harvest determination; please contact the Small Forest Landowner Office. We may be reached by phone at (360) 902-1427 or (360) 902-1494 via email at [frep@dnr.wa.gov](mailto:frep@dnr.wa.gov).*

## **PROGRAM PROCEDURES**

Forestry Riparian Easement Program applications may be submitted directly to the Small Forest Landowner Office at:

Small Forest Landowner Office  
Forest Practices Division  
P.O. Box 47012  
Olympia, WA 98504-1789

Once the application is received, a DNR representative will call to schedule a site visit to walk the entire application area to verify the land's eligibility and to identify which trees meet the criteria for qualifying timber. Landowners are responsible for marking the proposed easement area, as well as any property boundaries prior to the scheduled site visit.

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<sup>3</sup> A written contract in which a lender who has secured a loan by a mortgage or deed of trust agrees with the property owner to subordinate the first loan to a new loan, thus giving the new loan priority in any foreclosure or payoff.

Following the site visit, the qualifying timber will be cruised and used to determine the value of the easement. The value will be provided to the landowner in a letter, along with a request that the applicant confirm their continued interest in the program. If funding is not immediately available to purchase the easement, the application will be placed on a "first in line, first funded" list. Once funding has been verified, you will be contacted by an escrow company to sign all the transaction documents.

After final approval of the easement and signature by the designated DNR authority, a recorded copy of the easement document and the compensation funds will be sent to the landowner. Landowners have the right to cancel the transaction at any time in this process, up to the day of closing.