

Section 18

Rivers and Habitat Open Space Program

This manual contains guidance for acquisition of easements in the Rivers and Habitat Open Space Program (RHOSP). The guidance supplements Chapter 222-23 WAC, the rules that describe the program.

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PART 1. OVERVIEW

Introduction

The 2009 legislature passed Substitute Senate Bill 5401 which expanded the Riparian Open Space Program to include all unconfined channel migration zones (CMZs) as well as forest land that contains habitat of state-recognized threatened or endangered species. This program is now known as the Rivers and Habitat Open Space Program (RHOSP).

The program enables Washington State to contribute to the recovery of salmon and certain other riparian and aquatic species, and to the restoration of related riparian ecosystems and critical habitats as defined in WAC 222-16-080 of the forest practices rules. DNR implements this program, screens applications, prioritizes qualifying applications, and acquires easements based on available funding. DNR, through the program, acquires a permanent conservation easement on timber, or timber and land ensuring long-term conservation of aquatic and upland habitat. Once DNR acquires a permanent conservation easement from the landowner, timber harvest will not be allowed within the easement premises.

Grants, funds or gifts from any source, including private individuals will be allowed to perpetuate this program (RCW 76.09.260).

This manual provides guidelines to help the public understand how to apply for an easement and receive compensation for timber, or timber and land within unconfined CMZs and critical habitats of state-recognized threatened or endangered species that may not be able to be harvested due to the forest practices rules.

PART 2. POLICIES

2.1 Application Forms

Applicants for the program must fill out an application form provided by DNR. The application indicates the landowner's interest to grant a permanent easement and provides information about the scope of the proposal. DNR will use the information in the application to help determine proposal eligibility, as well as the priority for acquisition. Applications will be accepted in phases to facilitate a prioritization process in each application period. Those applications that do not receive funding initially can be resubmitted in subsequent application periods.

The application form and the instructions for completing an application will be made available at DNR Region offices, as well as in electronic format on DNR's webpage at <https://www.dnr.wa.gov/programs-and-services/forest-practices/small-forest-landowners/rivers-and-habitat-open-space>.

The application will include components of WAC 222-23-020(1), in addition to the following application elements:

1. Location and description of the land proposed for inclusion in the program, including estimated acreage, and whether the land is located within a qualifying CMZ or critical habitat.
2. Tax parcel identification number(s) of the parcel(s) that contain the qualifying CMZ or critical habitat lands.
3. List of all persons having any right or interest in the land covered by the application, a description of such right or interest, and the proper documentation. If the property is owned by a LLC, partnership, or other pass-thru entity, the applicant will provide a statement of authority that indicates adequate legal authorization to encumber the property with a permanent conservation easement.
4. A map showing where the qualifying CMZ land has been delineated on the ground following the guidance of Board Manual Section 2; or a map showing where the qualifying critical habitat has been delineated on the ground per WAC 222-16-080.
5. For critical habitat only, provide information on the type of critical habitat located on the land (e.g., Status 1 or 2 owl circle, occupied marbled murrelet habitat, etc.)
 - (a) Critical habitat information can be obtained from Washington Department of Fish and Wildlife (WDFW). WDFW provides maps and reports that answer the most common questions concerning the presence of important fish and wildlife species. To obtain a map including sensitive information, landowners may be required to sign a Sensitive Data Agreement. Contact WDFW's data request line at (360) 902-2543 for more information.
6. Information about the CMZ and/or critical habitat(s) that will aid DNR in prioritizing the application (see Section 3.2).

2.2 Eligibility Requirements

Eligible land is classified as designated forest land (RCW 84.33), timber land or open space (RCW 84.34) and is owned by an individual, partnership, corporation or other nongovernmental entity.

CMZ Eligibility

Use Board Manual Section 2 as a guide for delineating unconfined CMZs. Examples of unconfined CMZs include avulsing, meandering, and braided channels that generally are less than two percent in gradient.

Critical Habitat Eligibility

Critical habitat for this program is state-recognized critical habitat as defined by the Forest Practices Board (Board) in WAC 222-16-080. The program will consider newly listed state-recognized habitats as they are included in the forest practices rules per the Washington Department of Fish and Wildlife's recommendations to the Board. DNR, after consultation with the WDFW, prepares and submits newly listed state-recognized threatened or endangered species to the Board for adoption in the forest practices rules per WAC 222-16-080(3).

2.3 Acquisition Timeline

Funding Cycle process

Funding levels are subject to Washington State legislative appropriations.

RHOSP conservation easement acquisitions are subject to appropriations from the State Legislature sufficient to cover the cost of the acquisition and the related costs of administering the program. Depending upon funding levels, the funding periods can be in annual or biennial funding cycles. Biennial funding cycles correspond with the state biennium and start every odd calendar year on July 1 (e.g. July 1, 2011, July 1, 2013, etc.) Applications to be considered for a funding cycle are those received prior to each funding period.

These acquisition funds may be divided into two funding categories:

1. Generally, when the funding level exceeds one million dollars, DNR expects to allocate approximately 70% for critical habitat and 30% for CMZs. If the demand is limited in either funding category, DNR may shift moneys between the funding categories.
2. The landowner may submit phased proposals so that easements can be acquired on portions of the timber, or timber and land. Depending upon the level of funding, DNR may be limited in the proposal or easement acquisition size and partial funding would be allocated. For further assistance on phased proposals contact the Forest Practices Division (360) 902-1400 or FPD@dnr.wa.gov.

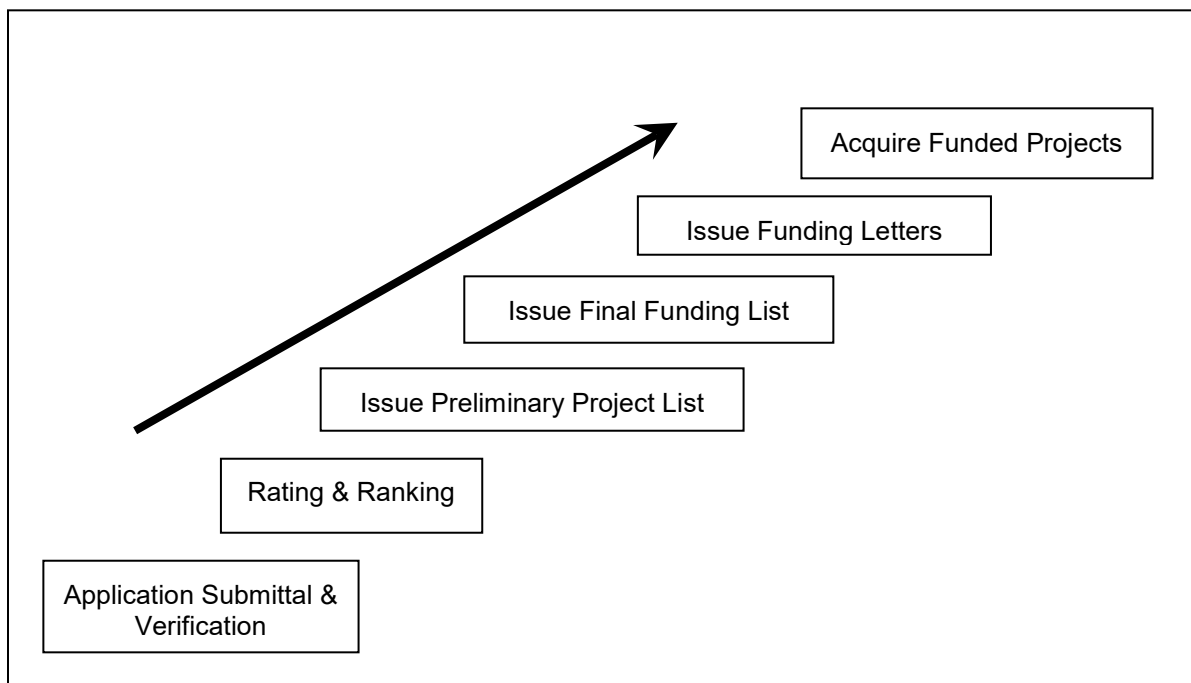


Figure 1: Funding Cycle Process Steps

2.4 Easement valuation process

The compensation for these conservation easements are determined using the value of the timber found within the easement premises and in some circumstances may include a land value. There are two types of conservation easements the landowner may choose to grant and receive compensation for under this program: 1) a landowner may be compensated for a conservation easement that encumbers only the trees within the eligible area; or 2) a landowner may be compensated for a conservation easement that encumbers both the trees and the land within the eligible area. DNR will value the easement compensation using the Timber Value and the Land Value Components.

Timber Value Component

The timber value component consists of two elements, 1) the cruise volume of all commercially valuable trees located within the proposed easement and 2) the stumpage values used to determine the forest excise tax of a timber harvest.

- Cruise Volume

DNR shall determine the cruise volume of the commercially valuable trees located within the proposed easement using a standardized cruise method. DNR and the landowner shall be in agreement on the sampling intensity and with the list of private timber cruise contractors selected for bidding on the timber cruise contract for the landowner's project.

- Timber Cruise

The timber cruise shall measure all commercially valuable trees within the lands to be conveyed and develop all information (species and grade) with respect to that timber necessary to apply the stumpage tables developed by the Department of Revenue (DOR) pursuant to RCW 84.33.091; this includes volume by species and grade sufficient to

apply the DOR stumpage tables in WAC 458-40-640, 458-40-650, 458-40-660(2), and 458-40-660(3).

- **Stumpage Value**

A stumpage value is determined by using DOR's Forest Excise Tax procedure for the harvest of timber. All elements of the DOR procedures (e.g., stumpage value area, timber quality codes, and harvest value adjustment) are used to determine the final stumpage value.

Land Value Component

DNR will use a combination of the Timber Value Component and the Land Value Component to determine the value for those easements that the landowner chooses to convey an easement on both the timber and land. The land value component consists of two elements: 1) the size of the proposed easement in acres, and 2) the per-acre land value of commercial timber land. DNR will determine the acreage of the easement using the current standard used by DNR's land management program for determining timber harvest acres for timber appraisals. The per-acre land value is an average value to be determined, with consultation from the DOR, every calendar year with separate values for western Washington and eastern Washington. The definition of the geographic area of the proposed easement premises expressed by eastern and western Washington will be the same as that used by DOR.

PART 3. PROPOSAL APPLICATION EVALUATION

3.1 How applications are selected for funding

Prioritization

DNR will assemble a ranking committee in order to prioritize applications within a funding cycle. DNR will consult with other agencies to provide members, with appropriate expertise, to serve on the prioritization ranking committee (committee) for each application period to provide technical expertise. Application materials will be provided to the committee and selection of the highest ranking proposals will occur.

In an effort to maximize the use of all available funds, DNR will use a statewide prioritized list of RHOSP proposals. The proposals will be evaluated based on the rating criteria established in section 3.2 and recommendations from the committee. DNR expects to allocate approximately 70% of the funds for critical habitat and 30% for CMZs. A statewide priority list of CMZ and critical habitat proposals will be created by evaluating these proposals based on the rating criteria established in 3.2 and recommendations from a prioritization ranking committee.

3.2 Application criteria

The committee will use the Unconfined CMZs & Critical Habitat Evaluation Summary in Attachment A to establish prioritization of proposals. The committee will also use the landowner application information in their prioritization process, including:

1. **Ecological/Biological Characteristics.** Why is the proposed site worthy of a permanent conservation easement?

Describe your proposal as accurately as possible to the committee - the what, where, and

why. The committee will draw conclusions based on the information presented about the quality and potential function of the habitat and the demonstrated need to protect it for fish and/or wildlife. You may submit up to two maps and/or pictures of your proposed easement site.

SCOPE and PLANNING. Is this proposal supported by a current plan (i.e., local watershed, statewide, agency, or conservation species management recovery plans, State or Federal recovery plans, Safe Harbor Agreement(s), habitat conservation plans), or a coordinated region-wide prioritization effort? What is the status of the plan? What process was used to identify this project as a priority? What specific role does this project play in a broader watershed or landscape picture? Is it part of a phased project? Is it a stand-alone site/habitat?

SIGNIFICANCE. Explain how the proposed site is significant on a state, ecosystem, and/or watershed level. How significant is the site in relation to habitat quantity, quality, connectivity, diversity, and rarity? How is the site important in providing habitat for fish and/or wildlife species?

FISH AND WILDLIFE SPECIES AND/OR COMMUNITIES. Is the critical habitat or CMZ connected to or adjacent to other habitat areas, conservation easements (forest riparian, land trust, etc.) or plans per WAC 222-16-080(6)? What species (salmonids, northern spotted owls, marbled murrelets, etc.) are currently using your site? Which species have the potential and likelihood to use the site in the future? Are there other species of interest located on this site?

HABITAT QUALITY. Describe the ecological and biological quality of the habitat.

CRITICAL HABITAT.

Which species with critical habitat needs (northern spotted owls, marbled murrelets, salmonids, bull trout, eagles, etc.) does your proposed area support? How is this habitat important for providing food, water, cover, connection to other forested areas, nesting, breeding, and resting areas? Could your site provide a wildlife habitat corridor or partial corridor? For aquatic habitat, describe the amount and size of large woody debris (LWD) found on site. Describe the presence and diversity of habitat that fish, of all life stages, can occupy (e.g., pools, undercut banks, riffles, overhead cover, side channels, etc.). Have there been any disturbances (e.g., man-made or natural such as logging, road building, bridge placement, rip-rap placement, fires, landslides, debris flows, etc.)?

CMZs.

Do you have LWD in your stream/river? Do you have large trees next to the stream/river for LWD recruitment, shade, etc. (list tree size and estimate of number)? Do you have a forested island within the stream/river channel? Does your CMZ show active movement over the recent past, or potential for future movement? Are there secondary or side channel habitats, oxbows, etc.? Please refer to Board Manual Section 2 to aid in the description of the CMZ on your proposal.

FOREST TYPE. Does the stand consist of conifer, hardwood trees, or a mix (list % of each)? What is the average age of the trees, or stand origin date? Describe how many large [> 28 inch diameter] trees are on your site and their diameters at breast height (DBH). Do you have a multistory stand – two or more distinct age classes of trees? List multiple tree species your proposed easement may contain such as Douglas-fir, western red cedar, western hemlock, Sitka spruce, red alder, Black cottonwood, big leaf maple, etc. Are there snags within the proposed area (list number \geq 10 inches DBH and species)? See WAC 222-16-080 for specific characteristics for critical habitat (state) that is on your land and describe how your proposed area meets that criterion.

WATER QUALITY. *Please provide this information for a CMZ application only.*

How will your proposal assist in maintaining or restoring water quality? Is the stream/river on the Department of Ecology's 303(d) list; is the water quality impaired (temperature or sediment too high)? Does your CMZ contain mature timber? Does the habitat associated with the CMZ provide protection for fish (e.g., side channels for high flows or over-wintering habitat)? The following link will help provide information on 303(d) water quality <https://ecology.wa.gov/Water-Shorelines/Water-quality/Water-improvement/Assessment-of-state-waters-303d>

2. **Manageability and Viability. What is the likelihood of the site remaining viable over the long-term and why is it important to conserve it now?**

The intent of this question is to determine how the proposed site will be managed to protect the target species or communities.

LONG-TERM VIABILITY OF THE SITE TO PROVIDE HABITAT. What is happening across the landscape or watershed that may affect the viability of the proposed site to support critical habitat needs? Is this site located on a river that is subject to seasonal flooding and river course changes? Describe any long-term site monitoring plans on the site and identify who will implement monitoring. Are there opportunities to enhance habitat and/or water quality, if so, please describe?

PROXIMITY AND CONNECTIVITY TO EXISTING PROTECTED LAND. Are there other protected lands (public and private) near or adjoining this site that have complementary or compatible land uses for the target species (consider wide-ranging or migratory species)? Is the land located adjacent to an existing conservation easement (forest riparian, land trust, etc.) or an unstable slope? Are they managed in a manner consistent with the needs of the target species/communities? Is this site part of a larger ownership? If so, describe the connectivity and management of the other land.

ON-GOING STEWARDSHIP OF FOREST. Describe any planned or on-going stewardship activities (e.g., restoration activities, large woody debris placement, fish habitat enhancement, noxious weed control, forest health, fire hazard reduction etc.) and identify the source of funds. What is the current or future use for this site (e.g., cabin, recreation, hunting, hiking, etc.)?

EXTERNAL FUNDING SUPPORT. If your project is a component of a larger project, describe and document other monetary means that have been or may be secured to help cover the costs for the project (i.e., grants, donations, in-kind contributions, matching funds, etc.).

PART 4. GLOSSARY

Channel migration zone (CMZ): The area where the active channel of a stream is prone to move and this results in a potential near-term loss of riparian function and associated habitat adjacent to the stream, except as modified by a permanent levee or dike. For this purpose, near-term means the time scale required to grow a mature forest. (See board manual section 2 for descriptions and illustrations of CMZs and delineation guidelines.)

Critical habitat (state): Those habitats designated by the board in accordance with WAC 222-16-080.

Diameter at breast height (dbh): The diameter of a tree at 4 1/2 feet above the ground measured from the uphill side.

Habitat corridor: area of habitat connecting wildlife populations separated by human activities (such as roads, development, or logging).

Threatened or endangered species: All species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior or Commerce, and all species of wildlife designated as "threatened" or "endangered" by the Washington Fish and Wildlife Commission.

Overflow channel: A secondary channel on the floodplain that conveys water away from and/or back into the main channel. These channels can be continuous or interrupted in space in terms of channel dimensions and scour and fill. They often are a response to episodic flood scour and fill during floodplain inundation and drainage. They also can partially fill in between episodic flood events or become abandoned completely or be blocked by deposits of sediment or wood at their head. Overflow channels are typically at or above the range of bankfull flow elevations.

Oxbow lake: A crescent shaped pond or lake formed in a portion of abandoned stream channel cut off from the rest of the main channel created when meanders are cut off by avulsions from the rest of the channel. Once isolated by formation of avulsion channels, oxbow lakes will slowly fill up with sediment, as point bar sands and gravels are buried by silts, clays, and organic material carried in by river floods and by sediment slumping in from sides as rain fills up lake.

Secondary channel: Any channel on or in a floodplain that carries water (intermittently or perennially in time; continuously or interrupted in space) away from, away from and back into, or along the main channel. Secondary channels include: side channels, wall-based channels, distributary channels, anabranch channels, abandoned channels, overflow channels, chutes, and swales.

Side channel: A secondary or anabranch channel that is at least partially connected to the main river channel with its channel thalweg at or below the range of bankfull flow elevations. Side channel inlets are often blocked by wood jams or large accumulations of gravel and sand.

Snag: A standing dead tree; may have some live limbs toward the top of the tree.

**Attachment A
DNR Rivers and Habitat Open Space Program**

Unconfined CMZs & Critical Habitat Evaluation Summary		
Criteria	Evaluation Elements	Possible Points
Proposal Introduction	<ul style="list-style-type: none"> • Location of the proposal on statewide, vicinity, and site maps • Brief summary of the proposal [goal(s) and objective(s) statement] • Proposal Support 	Not scored
Ecological and Biological Characteristics	<ul style="list-style-type: none"> • Scope and Planning/significance of the proposed site • Benefits to fish and wildlife species and/or ecological communities • Habitat Quality • Forest Type • Water quality (for CMZ applications only) 	30
Manageability and Viability	<ul style="list-style-type: none"> • Long-term viability of the proposed site to provide habitat • Proximity and connectivity to existing protected land • On-going stewardship of the forest • External funding support 	20
Total Points Possible		50