

Draft WWRP Forest Land Preservation Category Policies

Forest Land Preservation Grants Purpose

The purpose of the Forest Land category is to acquire and preserve opportunities for forest management activity on forest lands.¹ Forest land preservation projects may include many different kinds of forests including, but not limited to, large to medium scale industrial forests, small private landowner forests, community forests, and tribally or publicly owned or managed forests. Regardless of the kind of underlying ownership, forest land participating in this category must be devoted primarily to the growth and harvest of timber for commercial purposes.

See the section on Eligible Forests for more details on the types of property eligible for grant funding.

Grant Limits²

Grant limits for forest land projects are as follows:

- There is no minimum grant amount.
- The maximum grant request amount is \$350,000.

Eligible Applicants³

- Cities and counties
- Nonprofit nature conservancies⁴
- Washington State Conservation Commission

Qualified Nonprofits⁵

Nonprofit nature conservancies must meet the following eligibility requirements:

- Be registered in the State of Washington as a nonprofit corporation as defined by Chapter 24.03 Revised Code of Washington AND meet the definition for a nonprofit nature conservancy in Revised Code of Washington 84.34.250; and
- Demonstrate at least 3 years actively managing projects relevant to the types of projects eligible for funding in the Forest Land category. "Actively managing projects" means performing the tasks necessary to manage on-the-ground forest land management functions, such as negotiating for acquisition of property rights, closing on an acquisition, developing and implementing management plans, designing and implementing projects, securing and managing the necessary funds regardless of fund source, and other tasks.
- Demonstrate a proven ability to draft, acquire, monitor, and enforce conservation easements.

¹ Revised Code of Washington 79A.15.130

² Recreation and Conservation Funding Board Resolution 2016-XX

³ Revised Code of Washington 79A.15.130(4)

⁴ Revised Code of Washington 79A.15.010(7)

⁵ Recreation and Conservation Funding Board Resolution 2016-XX

Eligible Forests⁶

Each parcel included in a grant application must meet the definition of "Timberland" in the Open Space Tax Act⁷ or "Forest land" in the Timber and Forest Lands Tax Act⁸.

"Timberland" means any parcel of land that is five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial purposes. Timberland means the land only and does not include a residential homesite. The term includes land used for incidental uses that are compatible with the growing and harvesting of timber but no more than ten percent of the land may be used for such incidental uses. It also includes the land on which appurtenances necessary for the production, preparation, or sale of the timber products exist in conjunction with land producing these products.⁹

"Forest land" is synonymous with "designated forest land" and means any parcel of land that is five or more acres or multiple parcels of land that are contiguous and total five or more acres that is or are devoted primarily to growing and harvesting timber. Designated forest land means the land only and does not include a residential homesite. The term includes land used for incidental uses that are compatible with the growing and harvesting of timber but no more than ten percent of the land may be used for such incidental uses. It also includes the land on which appurtenances necessary for the production, preparation, or sale of the timber products exist in conjunction with land producing these products.¹⁰

Applicants must provide documentation that each parcel in a grant application is classified as timberland or designated forest land by the application due date, except as noted in the following paragraph. Acceptable forms of documentation are a written document from the county assessor, a current property tax notice, or a recent title report that shows the classification as an encumbrance on the property. The director relies on documentation provided by the applicant to make a determination of eligibility.

If a parcel is not classified as timberland or forest land, an applicant may seek an informal or preliminary determination from the county assessor that the parcel could be classified as timberland or forest land. Acceptable forms of documentations are a letter from the county assessor or the county assessor's approval of an application for classification. The property owner is required to enroll their property in the Open Space Tax program before the RCO releases funds for the acquisition of the easement or lease and must remain in the program for the life of the conservation easement or lease.

Applicants must submit to RCO the property's timber management plan required by Revised Code of Washington 84.34.041 at the time of application of grant funds or upon enrollment in the Open Space Tax program.

The director may extend the deadline for demonstrating that the land meets the definition of timberland or forest land up until the date of the Recreation and Conservation Funding Board meeting when it approves the ranked list of projects for submittal to the Governor and Legislature.

⁶ Recreation and Conservation Funding Board Resolution 2016-XX

⁷ Chapter 84.34 Revised Code of Washington

⁸ Chapter 84.33 Revised Code of Washington

⁹ Revised Code of Washington 84.34.020(3)

¹⁰ Revised Code of Washington 84.33.035(5)

Compliance with the Forest Practice Act

All parcels must comply with the Forest Practices Act. RCO will determine compliance at the time of application based on review of a preliminary title report for the property and whether there are encumbrances listed identifying the violation. If a parcel is not in compliance, the applicant may still apply for grant funds and receive a funding award, but the landowner must correct the violation before the completion of the grant project. Grant funds may not be used to directly pay for correcting the violation. Proceeds from the sale of the easement may be used by the landowner to correct the violation.¹¹

For more information on compliance with the Forest Practices Act, contact the Washington State Department of Natural Resources at (360) 902-1400, fpd@dnr.wa.gov, or <http://www.dnr.wa.gov/programs-and-services/forest-practices/rule-implementation>.

Eligible Project Types

Acquisition Projects

Grant funds are available to buy less than fee title real property rights such as easements and leases.¹²

Acquisition must include purchase and extinguishment of all development rights. Proposals for perpetual acquisition receive a preference during evaluation. Acquisition of a limited duration must be for at least 50 years. Acquisitions must be recorded at the county auditor's office where the land is located.¹³

Incidental and administrative costs related to acquisitions are eligible including a baseline inventory and a farm stewardship plan as described below. Additional policies for property acquisition are in *Manual 3, Acquisition Projects*.

*Multiple Parcels*¹⁴

Applications may include one or more parcels.

- All parcels proposed for acquisition must be identified in the grant application by the technical completion deadline.
- Each parcel must be identified on a map in the application and with a county parcel number.
- All parcels must be contiguous or within the same ownership.¹⁵ Ownership means the individual, individuals, or businesses that hold title to a parcel of land. Contiguous means two or more parcels that physically touch one another along a boundary or a point. Land divided by a public road, but otherwise an integral part of a forestry operation, is considered contiguous.

¹¹ Recreation and Conservation Funding Board Resolution 2016-XX

¹² Revised Code of Washington 70A.15.130(3)

¹³ Recreation and Conservation Funding Board Resolution 2016-XX

¹⁴ Recreation and Conservation Funding Board Resolution 2016-XX

¹⁵ Revised Code of Washington 84.34.020(6)(b)(i) and (ii)

*Ineligible Acquisition Projects*¹⁶

The following projects are ineligible:

- Acquisition of rights for a term of less than 50 years.
- Land already owned by an applicant or sponsor described in RCW 79A.15.130(4) except as allowed by other board policy.
- Properties acquired by a condemnation action of any kind.¹⁷ The value of parcels acquired by condemnation may not be used as part of the required matching share.
- Transfer of development rights. Development rights acquired under this program may not be transferred to other property or for other uses.
- Protection of land for the purposes of satisfying a Habitat Conservation Plan under the Endangered Species Act.

*Combination Projects*¹⁸

Combination projects involve acquisition and habitat enhancement or restoration. Habitat enhancement and restoration activities must occur within the area acquired.¹⁹ Additional policies for enhancement and restoration activities are in *Manual 5, Restoration Projects*.

Habitat enhancement or restoration activities must be less than 50 percent of the acquisition cost of the project including any in-kind contribution by any party.²⁰ For example, if the total acquisition cost is \$200,000, restoration costs may not exceed \$100,000, for a total project cost of \$300,000. Total project cost includes the grant amount and sponsor's matching share.

Habitat enhancement or restoration activities within a project must further the ecological functions of the forest land. Projects should enhance the viability of the preserved forest land to provide timber production while conforming to any legal requirements for habitat protection. Examples of eligible activities include fencing, bridging watercourses, replanting native vegetation, and replacing culverts. Restoration activities should be based on accepted methods of achieving beneficial enhancement or restoration results.²¹

*Fish Passage Barriers*²²

Projects must include correcting all fish passage barriers within the area proposed for acquisition from a private, small forest landowner. A private, small forest landowner harvests less than 2 million board feet of timber each year from land they own in Washington. Funding from other RCO administered programs, except for WWRP, are eligible sources of match for this restoration activity. Fish passage barriers on other forest land are not eligible for grant funding because landowners must correct barriers in their Road Maintenance and Abandonment Plan as required by the Forest Practices Act.

¹⁶ Recreation and Conservation Funding Board Resolution 2016-XX

¹⁷ Revised Code of Washington 79A.15.090

¹⁸ Recreation and Conservation Funding Board Resolution 2016-XX

¹⁹ Recreation and Conservation Funding Board Resolution 2016-XX

²⁰ Revised Code of Washington 79A.15130(13)

²¹ Revised Code of Washington 79A.15130(13)

²² Recreation and Conservation Funding Board Resolution 2016-XX

*Ineligible Enhancement and Restoration Costs*²³

The following items are not eligible:

- Restoration work required under the Forest Practices Act or other regulatory mitigation requirement, except as described under the *Fish Passage Barriers* section.
- "Consumable" supplies such as fuel, fertilizers, pesticides, or herbicides, except as a one-time applications if they are necessary parts of eligible acquisition or restoration activities.
- Elements that cannot be defined as fixtures or capital items.
- Environmental cleanup of illegal activities (i.e. meth labs).
- Indoor facilities.
- Purchase of maintenance equipment, tools, or supplies.
- Restoration work done before a project agreement is signed between the applicant and the Recreation and Conservation Funding Board. This work also cannot be used as match.
- Routine operation and maintenance costs.
- Utility payments such as monthly water or electric bills.

Baseline Inventory²⁴

A baseline inventory is required. A baseline inventory records and characterizes the condition of the property at the time acquisition. The inventory provides the basis for future easement or lease monitoring and, if necessary, enforcement. See *Manual 3, Appendix F* for baseline inventory requirements.

The baseline inventory must be prepared before closing and signed by the landowner and sponsor at closing. In the event of poor seasonal conditions for documenting all conservation values, an interim baseline with a completion schedule must be signed at closing. If the baseline has been completed and a significant amount of time has elapsed before the easement is transferred, it should be reviewed and possibly updated before closing.

Forest Land Stewardship Plans²⁵

A forest land stewardship plan is an eligible cost activity. The maximum allowable cost for development of a stewardship plan is \$10,000.

An outline of the proposed stewardship plan must be submitted with the grant application and at a minimum contain the following elements:

- Long-term stewardship goals and objectives.
- Monitoring goals and objectives.
- Restoration goals and objectives (if applicable).
- Short-term, land management goals and objectives.

²³ Recreation and Conservation Funding Board Resolution 2016-XX

²⁴ Recreation and Conservation Funding Board Resolution 2016-XX

²⁵ Recreation and Conservation Funding Board Resolution 2016-XX

- Description of the project site, to include the following (the first four of which may be incorporated by reference to the baseline documentation that outlines current site conditions):
 - U.S. Geological Survey quad map and county assessor's parcel map.
 - Map showing all human-made and natural features.
 - Narrative description of the property.
 - Photographs taken at permanent photograph points.
 - A detailed stewardship plan implementation budget that identifies the source of funding.

Alternatively, the stewardship plan may follow the Integrated Forest Management Plan Guidelines produced by the Washington State Departments of Natural Resources and Revenue, United States Natural Resources Conservation Service and Forest Service, and American Tree Farm System. For more information, see http://file.dnr.wa.gov/publications/fp_sflo_fs_intfmgmtgdlns.pdf.

Permitted Uses²⁶

The following uses are permitted within the conservation area:

- Forest management in accordance with an approved forest stewardship plan
- Non-commercial and public recreational or educational uses
- Limited building rights for forest management purposes and ranching facilities
- Ranching and farming activities
- Limited use of agricultural chemicals
- Fire defense

Prohibited Uses²⁷

The following uses are prohibited within the conservation area:

- Subdivision of the property to smaller parcels
- Construction of new buildings, structures or improvements, except as permitted above
- Surface or subsurface mineral extraction, except for forest management purposes
- Topographic modifications, except for forest management purposes
- No significant erosion or pollution
- Waste disposal
- Hazardous materials disposal
- No compensatory mitigation
- Industrial, commercial or residential activities
- Game farming or game farm animals
- Commercial feed lots
- Commercial signs or billboards
- New or expanded utility rights-of-way, including energy facilities and cell towers
- Alteration of water courses
- Commercial mining or excavation

²⁶ Recreation and Conservation Funding Board Resolution 2016-XX

²⁷ Recreation and Conservation Funding Board Resolution 2016-XX

Administrative Rule Exceptions²⁸

The following administrative rules do not apply to projects funded in the Forest Land Preservation category:

WAC 286-13-110	Income, use of income.
WAC 286-13-120	Permanent project signs.
WAC 286-27-040	Does the program have planning eligibility requirements?

Public Access²⁹

By state law, the acquisition of a property interest does not provide a right of access to the property by the public unless explicitly permitted by the landowner in the conservation easement or other form of deed restriction.³⁰

If a willing property owner, or future property owner, and the sponsor agree to allow public access in the conservation area, such use shall be identified as a permitted use and included in the forest land conservation easement or lease or amended into the easement or lease at a later date. Examples of public access may include walking, public trails, water access sites, and areas for wildlife viewing, hunting, and fishing.

By state law, acquisition priorities for the WWRP Forest Land Preservation Category shall consider whether a forest land conservation easement is consistent with a regional or statewide recreation plan.³¹ Evaluators shall give higher consideration to applications that are consistent with such plans when scoring the other benefits in the "Community Values" evaluation question.

Evaluation Process³²

The process to evaluate applications is:

- The director establishes a forest lands advisory committee to recommend policies and procedures to RCO for administering grant funds and to review, evaluate, and score grant applications. The advisory committee is comprised of external people with expertise in forest land preservation and management. RCO staff do not participate on the committee as members but do staff the committee and moderate application evaluations.
- The advisory committee evaluates all complete grant applications that meet the required deadlines. Applicants present their proposed project to the committee in person by responding to the evaluation criteria, in order, in a PowerPoint presentation format. During the presentation, the advisory committee scores applications using the evaluation criteria adopted by the board. Scoring is by confidential ballot.
- After the presentations, the office calculates the average total score of each application and generates a ranked list of applications.

²⁸ Recreation and Conservation Funding Board Resolution 2016-XX

²⁹ Recreation and Conservation Funding Board Resolution 2015-23

³⁰ Revised Code of Washington 79A.15.130(6)

³¹ Revised Code of Washington 79A.15.130(12(d))

³² Recreation and Conservation Funding Board Resolution 2016-XX

- The director provides the preliminary ranked list of applications to the board in the fall of even numbered years.³³ The board approves the preliminary ranked list in an open public meeting and instructs RCO provide the list to the Governor and Legislature as part of RCO's budget request. After the Legislature approves funding, the board approves funding to the ranked project list in an open public meeting.

Other Policies That Apply

In addition to policies in *Manual 3, Acquisition Projects* and *Manual 5, Restoration Projects*, the following policies in *Manual 10f, WWRP Farmland Preservation* also apply to the WWRP Forest Land Preservation category.

- Legal Opinion for First Time Applicants
- Combination Projects
- Phased Projects
- Local Review of Acquisition Projects
- Landowner Acknowledgement of Application
- Preference for Community Priorities
- Building Envelopes
- Cultural Resources Review
- Invasive Species
- Sustainability
- Waiver of Retroactivity
- Project Area Stewardship and Ongoing Obligations
- Easement Compliance
- Public Disclosure
- Administration, Architecture, Engineering Costs
- Matching Shares
- Match Requirements
- Match Availability and Certification
- Types of Match
- Reimbursement
- Pre-agreement Costs
- Cost Increases
- Records Retention

³³ A prioritized list of applications is due to the Legislature by November 1, 2017, for the first year of the program as required in Section 12 of Chapter 149, Laws of 2016. Thereafter, the list will be provided by November 1st of even numbered years as required in Revised Code of Washington 79A.15.130(14).

Draft WWRP Forest Land Preservation Category Evaluation Criteria¹

Evaluation Criteria Summary

Scored By	Number	Evaluation Criteria	Maximum Score	Percent of Total
Advisory Committee	1	Viability of the Site – What is the viability of the site for commercial timber production?	15	38%
Advisory Committee	2	Threat of the Land – What is the likelihood the land <u>will not</u> stay in forest land use if it is not protected?	8	20%
Advisory Committee	3	Forest Land Stewardship – What stewardship practices are in place that provide ecological benefits such as clean air, clean water, storm water management, wildlife habitat, carbon sequestration factors and other benefits?	10	25%
Advisory Committee	4	Community Values – How will protecting the land for forest management purposes provide other benefits to the community? Does the community and area Native American tribes support the project?	6	15%
RCO Staff	5	Match	2	5%
RCO Staff	6	Easement or Lease Duration	0	0%
Total Points			41	100%

ADVISORY COMMITTEE SCORED QUESTIONS

- 1. Viability of the Site** – What is the viability of the site for commercial timber production?
 - What is the long-term forest management strategy? Will it result in on-going commercial timber production?
 - Is there enough income generated on the property to sustain the long-term forest management strategy goals?
 - How many acres is the area proposed for conservation? Evaluators provide a preference for larger areas.
 - How much of the property is included in the building envelope? Is the size of the building envelop appropriate for the size of the proposed conservation area?

Maximum Points = 15 points

Score 0 – 15 points based on the viability of the site for commercial timber production.

¹ Recreation and Conservation Funding Board Resolution 2016-XX

2. Threat of the Land – What is the likelihood the land will not stay in forestland use if it is not protected?²

Score the question based on the severity of the threat that the property will be converted to some use other than forestland within the next five years? Threat may include lack of protection of the land, landowner circumstances, adjacent land uses, zoning supports ability to develop the land, or other conditions.

Maximum Points = 8 points. Score as follows:

- Low likelihood it will be converted to another use (0 point)
- Medium likelihood it will be converted to another use (1 - 4 points)
- High likelihood it will be converted to another use (5 - 8 points)

3. Forestland Stewardship – What stewardship practices are in place now or as part of the proposed project that provide ecological benefits such as clean air, clean water, storm water management, wildlife habitat, carbon sequestration factors and other benefits?³ What is the experience of the applicant to monitor the conservation easement to ensure the forest stewardship activities proposed are realized?

Examples of specific types of stewardship practices to consider are:

- Sustainable forest management practices in accordance with:
 - An integrated forest management plan.
 - Forest Stewardship Plan (DNR approved)
 - Conservation Activity Plan (NRCS)
 - Tree Farm Management Plan (Washington Tree Farm Program)
- Managing for wildfire
- Managing the spread of invasive species
- Managing for forest health and climate change
- Obtaining a third party certification (e.g., Sustainable Forestry Initiative, Forest Stewardship Council, American Tree Farm System)
- Demonstrating an estimate of the amount of biological carbon stored in trees and understory plants
- Efforts to protect state priority plant and animal species and ecosystems
- Flood reduction and floodplain connections
- Removal or correction of fish passage barriers
- Dedication of stream and wetland riparian areas larger than the minimum requirements in the Forest Practices Act

² Revised Code of Washington 79A.15.130(12)(c)

³ Revised Code of Washington 79A.15.130(12)(f)

Maximum Points = 10 points. Score as follows:

- There are no specific stewardship practices in place and the applicant has minimal experience managing easements or leases. (0 points)
- There are one or more stewardship practices planned for the future and the applicant has moderate experience managing easements or leases. (1 – 4 points)
- There are one or more stewardship practices in place and the applicant has strong experience managing easements or leases. (5 - 8 points)
- BONUS POINTS: Voluntary stewardship practices described will be included in the terms of the conservation easement or lease if the project is funded. (Add 1 – 2 points to the score.)

4. Community Values – How will protecting the land for forest management purposes provide benefits to the community? Does the community and area Native American tribes support the project?⁴

- Community support includes:
 - Letters of support from the community or tribes
 - Volunteer donations from community organizations to implement the project
- Community benefits include:
 - The project is recommended in a:
 - Limiting factors analysis or critical pathways analysis.
 - Watershed plan.
 - Habitat conservation plan.
 - Coordinated region-wide prioritization effort.⁵
 - The project is consistent with a:
 - Local land use plan.
 - Regional or statewide recreational or resource plan⁶ and provides public recreational access. Provide a preference for projects that include public access.
 - The project assists in the implementation of:
 - A local shoreline master plan updated according to RCW 90.58.080.
 - A local comprehensive plan updated according to RCW 36.70A.130.7.

Maximum Points = 6 points. Score as follows:

- The project will provide few additional benefits to the community. (0 – 2 points)
- The project will provide many additional benefits to the community. (3 - 4 points)

⁴ Revised Code of Washington 79A.15.130(12)(a)

⁵ Revised Code of Washington 79A.15.130(12)(b)

⁶ Revised Code of Washington 79A.15.130(12)(d)

⁷ Revised Code of Washington 79A.15.130(12)(d)

- There are one or more letters of support in the application that demonstrate community support for the project. (2 additional points)

OBJECTIVE SCORED QUESTIONS BY RCO

- 5. Match** - Is the applicant providing additional match above the minimum requirement?

Maximum Points = 2 points

- 0 points - The applicant is not providing additional match above the minimum requirements.
- 2 points - The applicant is providing 5 percent or more additional match above the minimum requirements.

- 6. Easement or Lease Duration** – What is the duration of the conservation easement or lease?

Maximum Points = 0 point

- The duration of the conservation easement or lease is forever. (0 point)
- The duration of the conservation easement or lease is not forever. (-10 points)