



STATE OF WASHINGTON
DEPARTMENT OF REVENUE

August 27, 2015

TO: Heather Hansen, John Ehrenreich
FROM: Jordan Dilba, Current Use Specialist, Property Tax Division
SUBJECT: **CLARIFICATION OF DESIGNATED FOREST LAND CONCERNS**

Question #1: Do assessors have the authority to decide how much must be harvested?

Response #1: Assessors must determine whether the land is **primarily** devoted to growing and harvesting timber. There are no minimums or standards in rule or statute for how much must be harvested, so the assessor is afforded discretion in this matter. However, unless there are restrictions on the land prohibiting the taking of trees, harvesting **must** occur to satisfy the program requirements. The assessor may consider the Timber Management Plan (TMP), when present, as a guide to determine if the land is being harvested according to schedule.

Question #2: Can land be removed if the landowner is following the management plan with respect to restocking? [RCW 84.33.140\(5\)\(e\)\(iii\)](#) would indicate no.

Response #2: [RCW 84.33.140\(5\)\(e\)\(iii\)](#) allows the assessor to remove property from DFL when restocking is **not** in compliance with the extent or timeframe specified in the application. However, there are many other reasons why a property can be removed; a property that is correctly following restocking plans may not be in compliance with other provisions of DFL status, necessitating removal.

Question #3: What if the landowner believes the timber management plan is no longer accurate? How often can it be revised? What is the process for revision?

Response #3: If the landowner no longer believes the timber management plan to be accurate, they may update it at their convenience. The assessor can only **require** a TMP for three situations: new applications, sales of designated property, and believing a parcel under 20 acres is no longer primarily devoted to growing and harvesting timber ([RCW 84.33.140\(7\)](#)). Rules and statutes are silent on voluntary owner updates. I would encourage the landowner to contact the assessor's office to discuss any potential changes in a TMP and to ensure assessor records are updated.

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Question #4: How is the appropriate stocking rate determined? How does it differ for different areas of the state?

Response #4: [WAC 222-34-010](#) and [WAC 222-34-020](#) determine appropriate stocking levels for west and east portions of the state respectively. [RCW 84.33.035\(21\)\(e\)](#) states that TMPs must have a statement about restocking compliance subject to [Title 76 RCW](#). Forest Practices contained in [WAC Title 222](#) are the rules created by the Department of Natural Resources as authorized by [Title 76 RCW](#).

Question #5: How are power line easements cutting through timberland valued?

Response #5: Current laws and rules are silent on valuation methodology for these properties; it is up to the assessor to determine a true and fair market value for these areas. If a property owner disagrees with the assessor's determination of market value, they may appeal to the Board of Equalization. They may also wish to discuss the value with the assessor before appealing; many valuation issues can be resolved in this fashion.

Question #6: It appears there is often confusion and/or disqualification when property is sold. It appears to be a frequent occurrence that land is disqualified for a year or two after sale. A typical scenario is the enrolled land has had minimal management often due to an elderly owner or passing through an estate. When the land sells, the assessor sees an opportunity to disqualify the land and make the new owner reapply after investing in restocking or other management practices. How can we ensure that the new owner has clear information to keep the land qualified?

Response #6: [RCW 84.33.140\(5\)\(d\)](#) requires that a new owner sign a notice of continuance when a property is sold, or the property must be removed from classification. The assessor reviews information on the notice of continuance to evaluate whether the land should continue designation, and may require additional information from the buyer and/or seller. The assessor has the option of requiring a TMP as allowed in [RCW 84.33.140\(7\)\(b\)](#). If, after review, the assessor does not approve the continuance, the property must be removed before the transfer proceeds. To educate taxpayers on requirements, the Department and/or the assessor provides publications, mandatory forms with the consequences of non-compliance, and oral and written advice to taxpayers regarding DFL properties. That said, the responsibility ultimately falls upon the new owner to comply with programs when they sign a notice of continuance.

When a property transfers as a result of inheritance, a notice of continuance is not required. This does not exempt the new owner from the requirements of the program, though. Removal could be considered if the assessor believes that the land is not and has not been primarily devoted to growing and harvesting timber. The requirements for

assessors regarding giving notice of intent to remove and an opportunity to be heard ([WAC 458-30-700\(4\)\(d\)](#)) still must be followed. I suggest landowners respond to these notices promptly to work to resolve issues.

Question #7: Clarify that [per RCW 84.33.140\(6\)](#); land may not be removed from designated forestland if there is a governmental restriction that prohibits harvesting such as an RMZ.

Response #7: [RCW 84.33.140\(6\)](#) clearly prohibits removal from Designated Forest Land for properties subject to new government imposed harvesting restrictions. The land must already be in the program to be protected by this statute. A riparian management zone (RMZ) is an example of a government restriction that prohibits harvesting, and would satisfy this requirement. This is a protection for existing DFL land and would not apply to new applications.

Question #8: Clarify that beaver ponds, rocky outcroppings, wetlands and other such natural features are a natural part of forestland consistent with the findings in [RCW 84.33.010](#) and should not be disqualified.

Response #8: Natural features, such as wetlands, rocky outcroppings, streams, etc., located on land designated as forest land, should be considered separate from the 10% incidental use allowance when reviewing new applications. The land containing these features essentially has 'no or minimal use' as opposed to 'incidental,' but may be part of a typical forest. However, if these natural features comprise a significant portion of the land, the assessor must determine whether the land can be used primarily for the growing and harvesting of timber. The assessor determines what constitutes a significant portion. If the assessor determines the land cannot be used primarily for the growing and harvesting of timber, the application may be denied. If the assessor determines certain portions of the land do not qualify for designation, they may partially approve the application. The applicant may appeal the assessor's decision. It is important to note that land containing these 'natural features' may have little to no use and therefore, a minimal true and fair market value. Landowners may appeal the market value of these portions if they do not qualify for DFL and disagree with the assessor's valuation.

Question #9: Clarify the definition of incidental use. The RCW definition for DFL and Open space Timber seem to be compatible, however, the WAC implementing the Open Space Timber definition creates confusion by combining definitions for ag and timberlands and including wetlands. With the move toward combining DFL and Open Space timber, it seems that [WAC 458-30-200\(2\)](#) no longer fits the intent of incidental use for timberland.

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Response #9: Since wetlands should be considered ‘natural features’ for Open Space Timber Land and DFL classifications, it is reasonable to believe that the definition for ‘incidental use’ contained in rule is unnecessary for Open Space Timber and DFL parcels containing wetlands. Citing wetlands as a specific example, however, is consistent with the definition for incidental use for farm and agricultural land contained in [RCW 84.34.020\(2\)\(e\)](#). Clarification will be considered next time WAC 458-30-200 is updated.