

WAC 458-30-232 Application for timber land classification. Introduction. This rule explains the application process used by an applicant who seeks to have land classified or reclassified as timber land under RCW 84.34.020(3).

(1) **Definitions.** For purposes of this rule, the following definitions apply:

(a) **"Stand of timber"** means a stand of trees that will yield log and/or fiber:

(i) Suitable in size and quality for the production of lumber, plywood, pulp, or other forest products; and

(ii) Of sufficient value to cover at least all the costs of harvest and transportation to available markets.

(b) **"Timber management plan"** means a plan prepared by a professional forester, or by another person who has adequate knowledge of timber management practices, concerning the use of the land to grow and harvest timber. This plan is described in RCW 84.34.041 and includes the following elements:

(i) A legal description of the land;

(ii) A statement that the timber land is held in contiguous ownership of at least five acres and is primarily devoted to and used to grow and harvest timber;

(iii) A brief description of the timber on the timber land or, if the timber has been recently harvested, the owner's plan to restock the land with timber;

(iv) A statement about whether the timber land is also used to graze livestock;

(v) A statement about whether the land has been used in compliance with the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW; and

(vi) If the land has been recently harvested or supports a growth of brush and noncommercial type timber, a description of the owner's plan to restock the timber land within three years.

(2) **Where to submit.** An application for classification or reclassification of land as timber land under RCW 84.34.020(3) is submitted to the county legislative authority of the county in which the land is located.

(3) **Granting authority.** The identity of the entity that will act as the granting authority will be determined by the location of the land the applicant seeks to classify or reclassify as timber land. The granting authority will be determined as follows:

(a) If the parcel(s) of land is located in an unincorporated area of county, the county legislative authority is the granting authority.

(b) If the parcel(s) of land is located in an incorporated area, a copy of the application for classification is forwarded to the city legislative authority in which the land is located. Applications must be acted upon by:

(i) A granting authority composed of three members of the county legislative authority and three members of the city legislative authority in a meeting where members may be physically absent but participating through a telephonic connection; or

(ii) Separate affirmative acts by both the county and city legislative authorities whereby each authority affirms the entirety of the application without modification or each authority affirms the application with identical modifications.

(4) **Application process.**

(a) **Consider all relevant evidence.** The granting authority will act upon the application with due regard to all relevant evidence.

(b) **Information that must accompany application.** An application for classification or reclassification of a parcel(s) of land as timber land is made on forms provided by the department. An application must include the following information and be accompanied by a timber management plan as defined in subsection (2) of this rule:

(i) A legal description of or the parcel number(s) of all land the applicant desires to be classified as timber land;

(ii) The date or dates the land was acquired;

(iii) A brief description of the timber on the land or, if the timber has been harvested, the owner's plan for restocking;

(iv) If the timber or forest management plan for the land has existed for more than one year, the application must indicate the nature and extent to which the plan has been implemented or changed;

(v) Whether the land is used for grazing;

(vi) Whether the land has been subdivided or a plat has been filed with respect for the land;

(vii) Whether the land and the applicant have complied with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;

(viii) Whether the land is subject to forest fire protection assessments under RCW 76.04.610;

(ix) Whether the land is subject to a lease, option, or other right that permits the land to be used for a purpose other than growing and harvesting timber;

(x) A summary of the applicant's past experience and activities in growing and harvesting timber;

(xi) A summary of the applicant's current and continuing activities in growing and harvesting of timber; and

(xii) A statement that the applicant is aware of the potential tax liability involved if the land ceases to be classified as timber land.

(c) **Solitary factors that will result in automatic denial.** An application may be denied for any of the following reasons without regard to any other factor:

(i) The land does not contain a stand of timber as defined in subsection (1) of this rule, as well as in chapter 76.09 RCW, and WAC 222-16-010. This reason alone is not sufficient to deny the application if:

(A) The land has been recently harvested or supports a growth of brush or noncommercial type timber and the application includes a plan for restocking within three years or a longer period necessitated because seed or seedlings are unavailable; or

(B) Only isolated areas within the land do not meet minimum standards due to rock outcroppings, swamps, unproductive soil, or other natural conditions.

(ii) The applicant, with respect to the land for which classification or reclassification is sought, has failed to comply with a final administrative or judicial order regarding a violation of the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW.

(iii) The land abuts a body of salt water and lies between the line of ordinary high tide and a line paralleling the ordinary high tide line and two hundred feet horizontally landward from the high tide line.

(5) **Public hearing required.** An application for classification of land as timber land will be approved or denied after a public hearing on the application is held. A notice of this hearing is to be announced once by publication in a newspaper of general circulation in the region, city, or county at least ten days before the hearing. The owner who submitted the application for classification or reclassification is to be notified in writing of the date, time, and location of the public hearing.

(6) **Timber management plan required.** A timber management plan must be filed with the county legislative authority either:

(a) When an application for classification is submitted;

(b) When a sale or transfer of timber land occurs and a notice of continuance is signed; or

(c) Within sixty days of the date an application for reclassification under chapter 84.34 RCW or from designated forest land under chapter 84.33 RCW is received. The application for reclassification will be accepted, but may not be processed until the timber management plan is received. If this plan is not received within sixty days of the date the application for reclassification is received, the application will be denied.

(d) If circumstances require it, the assessor may allow an extension of time for submitting a timber management plan when an application for classification or reclassification is received. The applicant will be notified of this extension in writing. When the assessor extends the filing deadline for a timber management plan, the granting authority should delay processing the application until this plan is received. If this plan is not received by the date set by the assessor, the application for classification or reclassification will be automatically denied.

(e) If circumstances require it, the assessor may allow an extension of time for submitting a timber management plan when a notice of continuance is received. The applicant will be notified of this extension in writing.

(7) **Approval or denial of application.** The granting authority will either approve or deny the application for classification or reclassification within six months of the date the completed application is received.

(a) The granting authority may approve the application for classification or reclassification in whole or in part. If any part of the application is denied, the applicant may withdraw the entire application.

(b) In approving the application in whole or in part, the granting authority may also require that certain conditions be met. The granting authority may not require the granting of easements for land classified as timber land.

(c) When an application for classification or reclassification as timber land has been approved, the granting authority will prepare an agreement. Refer to WAC 458-30-240 for a detailed description of this agreement.

(d) The granting or denial of an application for classification or reclassification as timber land is a legislative determination and is reviewable only for arbitrary and capricious actions. The applicant may appeal only to the superior court of the county in which the land is located and the application was made.

(e) No application may be approved for classification or reclassification as timber land if a county has merged its timber land clas-

sification and designated forest land program as described in subsection (8) of this rule.

(8) **Termination of timber land classification.**

(a) A county legislative authority has the option to merge its timber land classification with the designated forest land program, pursuant to RCW 84.34.400. To merge the programs, the county legislative authority must enact an ordinance that:

(i) Terminates the timber land classification; and

(ii) Declares that the land that had been classified as timber land is now designated as forest land under chapter 84.33 RCW.

(b) Once the timber land classification is terminated:

(i) Land that has been classified as timber land within the county is now designated as forest land under chapter 84.33 RCW. The date the property was classified as timber land is considered to be the date the property was designated as forest land. For example, if a county enacts an ordinance on October 15, 2014, terminating its timber land classification and declares that any timber land is now considered designated forest land, then a parcel of timber land classified on January 1, 2006, would be considered designated as forest land as of January 1, 2006;

(ii) Any agreement prepared by the granting authority when land was approved as timber land is terminated and no longer in effect; and

(iii) The county must notify the department after taking action under this subsection. The department will maintain a list on its agency internet website of all counties that have merged their timber land classification with their designated forest land program.

[Statutory Authority: RCW 84.08.010, 84.08.070, 84.08.080, 84.34.141, 84.34.360. WSR 15-03-017, § 458-30-232, filed 1/8/15, effective 2/8/15. Statutory Authority: RCW 84.08.070, 84.34.141, 84.36.865, 84.52.0502. WSR 09-19-010, § 458-30-232, filed 9/3/09, effective 10/4/09. Statutory Authority: RCW 84.34.141, 84.34.020, and 84.34.030. WSR 02-20-041, § 458-30-232, filed 9/24/02, effective 10/25/02. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. WSR 95-21-002, § 458-30-232, filed 10/4/95, effective 11/4/95.]