



**DEPARTMENT OF
NATURAL RESOURCES**

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MEMORANDUM

DATE: April 26, 2023

TO: Forest Practices Board

FROM: Mary McDonald, Forest Regulation Operations Assistant Division Manager

SUBJECT: Rule Petition for Rule Writing: Timber Harvest on Islands

On January 26, 2023, the Forest Practices Board received a petition for rule making from Bill Poss and Allison Warner to address concerns regarding the implementation of the timber harvest on islands related to the definitions of forest landowner, person and limited liability companies. On February 8, 2023, the Forest Practices Board denied the petition and the Chair directed staff to continue discussions with the petitioners and Island County staff to understand their issues and report their solutions. This memorandum is responding to the Chair's request.

DNR staff has met with the petition writers and Island County Commissioner St. Claire twice to ensure their concern is understood and to share information.

An example of the issue is three different limited liability companies (LLC) may involve the same individual(s) owning adjacent properties providing potential to cumulatively harvest timber up to 120 acres. This would be, from the petitioner's perspective, in conflict with WAC 222-30-110, which states, "a landowner shall not harvest by clearcut so that more than forty contiguous acres of that landowner's forest land are in a clearcut condition"

The viable options for the petitioners concern are building a working relationship with Island County staff regarding responsibilities of each agency and encouraging more dialogue between the DNR and County staff who are on the ground for practices that are occurring. DNR is also committed to increased education presence to the public and county staff.

DNR staff has reviewed the history of WAC 222-30-110 and the WAC and RCW regarding the forest landowner, person and LLC definitions. There are two statutes that give each LLC the status of a separate legal "person" for purposes of forest practices rules. RCW 76.09.020 (24) defines "person" very broadly for purposes of forest practices to mean "any individual, partnership, private, public, or municipal corporation, county, the department or other state or local governmental entity, or association of individuals of whatever nature." And the second statute is RCW 23.95.105 which defines a LLC as a legal entity in Washington.

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Forest Regulation will not be pursuing law or rule change to alter the meaning of person or to challenge a LLC as a legal entity.

DNR staff has met with Island County Commissioner and exchanged contact information. DNR staff is engaging in more dialogue between the DNR and County staff who are on the ground for forest practices that are occurring. We are also committed to increased education presence to the public and county staff.

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