

DEPARTMENT OF NATURAL RESOURCES

FOREST RESOURCES DIVISION

COMMERCIAL FORESTS

(By authority conferred on the department of natural resources by Part 511 of 1994 PA 451, MCL 324.51101 to 324.51120)

R 299.2601 Application requirements for listing land; "act" defined.

Rule 1. (1) An application for listing land shall be on a form prescribed by the department. An application shall be under oath, signed, dated, notarized, and postmarked not later than April 1 to be considered for listing in the following tax year. An application signed, dated, notarized, or postmarked after April 1 shall be carried forward for consideration in the following tax year or returned to the applicant.

(2) An application shall be prepared for each county covering all land in that county for which listing is desired. The application fee as required by MCL 324.51103 shall be calculated based on the total acreage applied for in each application.

(3) Land applied for shall be considered for listing as it is currently and legally described by recorded deed and on ad valorem assessment and tax rolls. Consolidation of contiguous descriptions in 1 section into a single larger description shall be done where possible.

(4) An application shall fully describe each tract and shall include all of the following information:

(a) County name.

(b) Political township.

(c) Town, range, section, and section subdivision.

(d) School district in which the tract is located.

(e) Legally redescribing land to exclude areas not eligible for listing is permissible.

The department may require a certified survey in accordance with section 1 of 1970 PA 132, MCL 54.211, if deemed necessary to determine eligibility.

(f) Net acreage shall include rights-of-way covered by easements, but shall not include rights-of-way deeded to others or tracts owned by others.

(5) If any interest in the title to land for which application for listing has been made is transferred between application submission date and the subsequent December 31, the applicant shall notify the department in writing immediately at the time of the transfer of title. Land no longer owned by the applicant and other application parcels that become ineligible due to the transfer of title shall be denied listing. If the land has already been approved for listing when notice of the transfer of title is received, the department shall cancel the listing.

(6) As used in these rules, "act" means Part 511 of 1994 PA 451, MCL 324.51101 to 324.51120.

History: 1979 AC; 1987 AACS; 2014 AACS.

R 299.2602 Rescinded.

History: 1979 AC; 1987 AACS.

R 299.2603 Listing certificate.

Rule 3. (1) Land approved for listing by the department shall be recorded on a listing certificate that will be sent to the applicant for signature. A listing certificate shall be prepared for each county in which the applicant owns land approved for listing.

(2) The signed listing certificate shall be promptly returned to the department by the applicant. The department shall sign the certificate and, not later than December 31, shall send the signed listing certificate to the appropriate county register of deeds and the appropriate township supervisor of land approved for listing.

(3) Land approved for listing shall be removed from the ad valorem assessment and tax roll for the following tax year and shall be placed on a commercial forest specific assessment and tax roll for taxation at the rate specified in MCL 324.51105.

(4) Any tax assessed after April 1 of the application year must be paid and evidence of such payment submitted to the department not later than March 1 of the first year of listing. If evidence of such payment is not received by the department, the listing shall be cancelled by the department. Both of the following apply:

(a) If the listing is cancelled, the department shall notify the township supervisor of the cancellation and request that the land be returned to the ad valorem tax roll for that tax year.

(b) If the listing certificate has been recorded at the county register of deeds, the department shall record a cancellation document with the register of deeds in said county.

History: 1979 AC; 1987 AACS; 2014 AACS.

R 299.2603a Return of portions of fees, taxes, and state payments to department of treasury for credit to state school aid fund; time.

Rule 3a. Those portions of revenues as defined in MCL 324.51109 which must be returned to the state treasury to the credit of the state school aid fund, pursuant to MCL 324.51106 and 324.51109, shall be returned to the state treasury by the appropriate township or county treasurer not later than April 1 of the year following the year of their receipt.

History: 1987 AACS; 2014 AACS.

R 299.2604 Land; eligibility for listing.

Rule 4. (1) To be eligible for listing, land shall meet the requirements for character and use prescribed in MCL 324.51101, 324.51103 and 324.51113.

(2) A tract of less than 40 acres is not eligible for listing unless it is contiguous to land already listed by the same owner or being listed by the same owner. However, a tract of less than 40 contiguous acres may be eligible if it is a fractional survey description, or

if its net area is less than 40 acres because of rights-of-way deeded to others, and if the department determines the tract is a reasonable and economic commercial forest management unit.

(3) Land within the boundaries of a city or village is not eligible for listing.

(4) Land zoned contrary to the intent of the act is not eligible for listing.

(5) Leasing and exploration for minerals and wind energy production are permitted on land listed under the act. Land for which application is being made for listing which is subject to mineral or wind energy leases or upon which exploration is occurring may be considered for listing if otherwise eligible.

(6) Commercial extraction of oil and gas is permitted on land listed under the act. Land for which application is being made for listing which is subject to oil and gas extraction may be considered for listing if otherwise eligible. All of the following apply:

(a) At least 30 days prior to removal, the owner shall submit to the department an application to remove oil and gas on a form prescribed by the department.

(b) Facilities, equipment, and structures directly related to and used solely for the extraction of oil and gas are permitted on land listed under the act.

(c) Refining of hydrocarbon liquids or underground natural gas storage/compression and any associated structures are not permitted on land listed under the act.

(7) If an owner owns both surface and mineral rights and the owner or his or her contractors undertake commercial mineral extraction other than oil and gas, the owner shall withdraw the affected land from listing prior to extraction.

(8) If surface and mineral rights are separately owned and the mineral owner or his or her contractors undertake commercial mineral extraction other than oil and gas, the surface owner shall withdraw the affected land from listing prior to extraction.

(9) The owner of listed land shall advise the department of any commercial mineral extraction operations and/or wind energy production and initiate withdrawal of the listed land affected prior to mineral extraction or wind energy production.

(10) If commercial metallic, nonmetallic, or other mineral extraction occurs, except oil and gas, the affected land to be withdrawn shall include either of the following:

(a) All of each listed 40-acre description, fractional description, government lot, or its equivalent over, upon, within, or under which mining operations occur.

(b) The area over, upon within or under which mining operations occur, as delineated on a project map of the affected area. Mining operations, in addition to the extraction of minerals or ores, include the utilization of an area or tract of land for any of the following purposes:

(i) Pits.

(ii) Openings.

(iii) Shafts.

(iv) Processing facilities.

(v) Stockpiling areas.

(vi) Water and tailings basins.

(vii) Shipping facilities.

(11) If mineral extraction results in the retention of land under listing that by itself is ineligible for listing, other than the acreage requirement, the landowner shall also withdraw this ineligible land from listing.

(12) Extraction of sand and gravel is permitted on listed land pursuant to MCL 324.51113. At least 30 days prior to removal, the owner shall submit to the department an application to remove sand and gravel on a form prescribed by the department. Sand and gravel applications shall be approved for a period not to exceed 2 years. If removal is not completed within the approved time period, a new application shall be submitted for the same description.

(13) The posting of a mineral exploration site or an oil and gas extraction site on listed land to prohibit public access on that site is permitted if necessary for public safety. Posting shall be restricted only to the area needed for efficient and safe operation of the exploratory or extraction site and shall be limited to the time during which exploration and/or extraction occurs.

(14) Tree plantations, to be eligible for listing and if otherwise eligible, shall have survived through the first 2 growing seasons after planting and, at the time of application, shall carry sufficient forest growth of suitable character and distribution to assure that a stand of merchantable timber will be developed within a reasonable time.

(15) Any 40-acre description, fractional description, or other description meeting the minimum acreage eligibility requirement specified in subrule (2) of this rule is not eligible for listing if it contains 25% or more nonstocked but productive land. This subrule applies to each such description even though it may be contiguous to other descriptions already listed by the same owner or being listed by the same owner.

(16) Any 40-acre description, fractional description, or other description just meeting the minimum acreage eligibility requirement specified in subrule (2) of this rule is not eligible for listing if it contains 50% or more nonproductive land unless it is contiguous to, and is an integral part of, a larger managed forest already listed by the same owner or being listed by the same owner.

(17) Land managed for Christmas trees or for forest crops normally harvested at an age of 10 years or less is not eligible for listing.

History: 1979 AC; 1987 AACS; 2014 AACS.

R 299.2605 Criteria to determine compliance with act.

Rule 5. Land listed as commercial forest shall comply fully with the requirements of the act and all of the following provisions:

(a) The owner of forest land listed under the act shall manage that land consistent with the purposes expressed in MCL 324.51101, 324.51103 and 324.51113 and according to the owner's forest management plan.

(b) Except as provided in MCL 324.51113, listed land shall not be used or obligated for any commercial purpose other than production of forest products and shall not be managed in a manner detrimental to the growth and development of those products.

(c) Noncommercial uses compatible with good forest management and full productivity of listed land are permitted.

(d) An easement may be granted across listed land if the effect on the productivity of the listed land is minimal. The owner shall notify the department, in writing, of a prospective easement across listed land.

(e) Buildings or improvements shall not be permitted on listed land, except those used exclusively for the conduct of commercial forest management operations or as specified in R 299.2604(6).

(f) An owner shall submit to the department, upon request, a description of public access to specific parcel descriptions of listed land for the purpose of hunting and fishing.

(g) If an owner enters into a conservation easement or makes any other restrictive commitment on listed land, the owner shall submit a copy of the conservation easement or restrictive document to the department within 30 days of signing such an agreement. If these documents contain provisions contrary to the act or these rules, the owner shall withdraw the land pursuant to MCL 324.51108.

History: 1979 AC; 1987 AACS; 2014 AACS.

R 299.2605a Public use of listed land.

Rule 5a. (1) Listed land shall be open to the public for hunting and fishing. Listed land shall not be posted in any manner to restrict or infer restriction of entry for hunting and fishing, except as provided in R 299.2604(13) and subrule (4) of this rule. Any act by an owner of listed land which is intended to deny or inhibit access for public hunting and fishing, except as provided in R 299.2604(13) and subrule (4) of this rule, shall preclude listing of the land or, if listed, may require withdrawal of the land from listing.

(2) Public use of listed land for any activity other than hunting or fishing requires owner permission. The owner of listed land may restrict, through posting, activities other than public hunting and fishing.

(3) Fences and gates do not disqualify land from listing if the owner allows public entry for hunting and fishing.

(4) The owner of listed land may restrict public access for hunting and fishing during active commercial logging periods within the affected area if both of the following conditions are met:

(a) The owner has notified the department pursuant to MCL 324.51111 and R 299.2606.

(b) The activities are in compliance with the owner's forest management plan.

History: 1987 AACS; 2014 AACS.

R299.2605(b) Forest management plan.

Rule 5b. (1) Pursuant to MCL 324.51101 and 324.51103, an owner shall maintain a current, written forest management plan in effect for all commercial forest land, and shall actively manage the commercial forest land according to this plan.

(2) A forest management plan shall meet the minimum requirements established and published by the department.

(3) The owner shall notify the department, in writing, 30 days prior to implementation, of any amendment or revision to a forest management plan.

(4) The certification required in MCL 324.51103 shall be on a form prescribed by the department and shall reference the owner's current forest management plan.

History: 2014 AACCS.

R 299.2606 Prior reporting; harvest of forest products.

Rule 6. (1) The owner of listed land shall report to the department of intent to harvest on a form prescribed by the department, prior to the cutting, harvesting, or removal of forest products from listed land.

(2) Cutting, harvesting, or removal of forest products from listed land shall be in accordance with the owner's forest management plan and limited to descriptions and harvest practices identified on the report.

(3) Prior reporting is not required for noncommercial timber management operations where no merchantable forest products are cut, sold, given away, utilized, removed, or destroyed.

(4) The department shall approve a harvest report for a period not to exceed 2 years. If harvesting operations, except transport of products, is not completed within the approved time period, an additional report shall be submitted to the department for the same description.

(5) The owner shall notify the department of any changes to the harvest described on the approved report, including descriptions, harvest practices, or other terms on the report.

History: 1979 AC; 1987 AACCS; 2014 AACCS.

R 299.2607 Rescinded.

History: 1979 AC; 1987 AACCS; 2014 AACCS.

R 299.2608 Withdrawal of listed land.

Rule 8. (1) The owner shall complete and submit an application to the department to withdraw listed land on a form prescribed by the department. If the withdrawal will result in the retention of listed land that by itself is ineligible for listing, the department shall also require withdrawal of that ineligible land in addition to the land contained in the initial withdrawal application.

(2) The department shall send the applicant a withdrawal certificate indicating the withdrawal penalty computed in accordance with MCL 324.51108 and instructions to make the penalty payment to the township treasurer.

(3) Upon receipt of the signed withdrawal certificate and certification by the township treasurer that the withdrawal penalty has been paid, the department shall certify the withdrawal as provided in MCL 324.51108. The date of this certification shall be the effective date of the withdrawal.

(4) Withdrawn land shall be subject to the specific tax and not to the ad valorem property tax in the tax year in which it is withdrawn.

(5) For a partial withdrawal of listed land, the department may require a certified survey in accordance with 1970 PA 132, MCL 54.211, of the land to be withdrawn and the land that will remain listed, if deemed necessary to ensure eligibility.

History: 1979 AC; 1987 AACS; 2014 AACS.

R 299.2609 New rates of fees or taxes.

Rule 9. (1) New rates of fees or taxes or changes in their distribution enacted into law shall become effective on the effective date of the amending act.

(2) New rates shall apply to the entire tax year during which the amending act becomes effective. However, if the amending act becomes effective after December 1, the new rates shall not become effective until the next tax year.

(3) If land is withdrawn from listing during a year that an amending act becomes effective and is withdrawn before the effective date of the amending act, then the old rates of withdrawal fees, annual specific tax, and state payment shall apply.

History: 1979 AC; 1987 AACS.

R 299.2610 Transfers of title.

Rule 10. (1) Transfer of title does not alter the listing if land eligibility is unaffected, and the new owner is in compliance with the act within 60 days of notification by the department.

(2) If listed land is purchased under a land contract, a copy of the land contract shall be submitted by the vendee of the land contract to the department. If the terms of the land contract are not in compliance with the act or these rules, the land contract shall be amended to comply with the act or the land contract vendee shall withdraw the land pursuant to MCL 324.51108 and R 299.2608.

(3) A title transfer which creates a separately owned description which does not meet eligibility requirements shall require withdrawal of that description from listing.

(4) If the state or other governmental agency is acquiring listed land by purchase, gift, donation, condemnation, or exchange, that land shall be withdrawn from listing by the owner before the title transfer is completed. If the title is transferred without prior withdrawal, the state or other governmental agency shall withdraw the land pursuant to MCL 324.51108.

(5) If listed land is being acquired by an entity whose land is exempted from ad valorem real property taxes pursuant to the provisions of 1893 PA 206, as amended, MCL 211.1, the land shall be withdrawn from listing by the owner of record before the title transfer is completed. If the title is transferred without prior withdrawal, the acquiring entity shall withdraw the land pursuant to MCL 324.51108.

History: 1979 AC; 1987 AACS; 2014 AACS.

R 299.2611 Trespass.

Rule 11. The department is not responsible for the protection of listed land against trespass upon forest products. If trespass upon forest products occurs, the owner shall notify the department in writing and bring the land into compliance with the act.

History: 1979 AC; 1987 AACS; 2014 AACS.

R 299.2612 Rescinded.

History: 1979 AC; 2014 AACS.