

DEPARTMENT OF NATURAL RESOURCES

FOREST MANAGEMENT DIVISION

COMMERCIAL FORESTS

(By authority conferred on the department of natural resources by section 1 of Act No. 94 of the Public Acts of 1925, as amended, and sections 9 and 252 of Act No. 380 of the Public Acts of 1965, as amended, being SS320.301, 16.109, and 16.352 of the Michigan Compiled Laws)

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 of natural resources.

(2) An application shall be made under oath and shall be notarized.

(3) An application shall be prepared for each county covering all land in that county for which listing is desired.

(4) Land applied for shall be considered for listing as it is currently and legally described on ad valorem assessment and tax rolls. Consolidation of contiguous descriptions in 1 section into a single larger

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

(a) The name of the county.

(b) Political township.

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

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

(e) Exceptions or partial descriptions.

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

(6) Legally redescribing land to exclude areas not eligible for listing is permitted if the remainder of the land is apparently eligible for listing.

(7) Applications shall be signed, dated, notarized, and postmarked not later than June 1 to be considered for listing in the following tax year. Applications that are signed, dated, notarized, or postmarked after June 1 shall be carried forward for consideration in the following tax year.

(8) As used in these rules, "act" means Act No. 94 of the Public Acts of 1925, as amended, being S320.301 et seq. of the Michigan Compiled Laws.

History: 1979 AC; 1987 AACS.

R 299.2602 Rescinded.

History: 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, in duplicate, and listing fee shall be promptly returned to the department by the applicant. The department, not later than December 31, shall send the signed listing certificate to the appropriate county register of deeds and shall notify 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 section 5 of the act.

History: 1979 AC; 1987 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 withdrawal tax penalties, withdrawal stumpage fees, yield taxes, landowner specific taxes, and state payments which must be returned to the state treasury to the credit of the state school aid fund, pursuant to section 7a of the act, 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.

R 299.2604 Land; eligibility for listing.

Rule 4. (1) To be considered for listing, land shall meet the requirements for character and use prescribed in sections 1a, 2, and 10 of the act.

(2) A tract of less than 40 acres is not eligible for listing unless it is contiguous to land already listed by the same applicant or being listed by the same applicant. However, a tract of less than 40 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 it is a reasonable and economic management unit primarily valuable as a commercial forest.

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

(6) If an owner owns both surface and mineral rights and the owner or his or her contractors undertake commercial mineral extraction, the owner shall withdraw the affected land from listing.

(7) If surface and mineral rights are separately owned and the mineral owner or his or her contractors undertake commercial mineral extraction, the surface owner shall withdraw the affected land from listing.

(8) It is the responsibility of the owner or owners of listed land to advise the department of commercial mineral extraction operations and to initiate withdrawal of the listed land affected.

(9) When commercial extraction of oil or gas occurs, the affected land to be withdrawn shall be all listed land which is shown by the supervisor of wells to be within the drilling unit, pursuant to Act No. 61 of the Public Acts of 1939, as amended, being S319.1 et seq. of the Michigan Compiled Laws.

(10) When commercial metallic or nonmetallic mineral extraction occurs, the affected land to be withdrawn shall include all of each listed 40-acre description, fractional description, government lot, or its equivalent over, upon, within, or under which mining operations occur. 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:

(a) Pits.

(b) Openings.

(c) Shafts.

(d) Processing facilities.

(e) Stockpiling areas.

(f) Water and tailings basins.

(g) Shipping facilities.

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

(12) The posting of a mineral exploration 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 site and shall be limited to the time during which exploration occurs.

(13) 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.

(14) 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 25% or more nonstocked but productive land. This rule applies to each such description even though it may be contiguous to other descriptions already listed by the same applicant or being listed by the same applicant.

(15) 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 applicant or being listed by the same applicant.

(16) 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.

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 sections 2 and 10 of the act.

(b) 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) Easements may be granted across listed land if the effect on the productivity of the listed land is minimal. The landowner shall advise the department of prospective easements across listed land.

(e) The only buildings or improvements permitted on listed land are those used exclusively for the conduct of commercial forest management operations.

History: 1979 AC; 1987 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(12) 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(12) and subrule (4) of this rule, shall preclude listing of the land or, if listed, may require withdrawal of the land from listing if not corrected by the owner.

(2) 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 on listed descriptions for which cutting permits have been issued and are in effect.

History: 1987 AACS.

R 299.2606 Harvest of forest products.

Rule 6. (1) Commercial harvest of forest products from listed land shall be limited to descriptions, species, and forest products identified in cutting permits which are issued by the department before cutting and which are in effect at the time of cutting.

(2) A request for a cutting permit shall be made on a form available from the department and shall be submitted before forest products are harvested from listed land.

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

(4) Cutting permits shall be issued for 1 year. Extensions may be granted by the department with the understanding that stumpage rates will be reviewed and adjusted if necessary upon each request for extension.

(5) It is the responsibility of the permit holder to notify the department of any change in the descriptions, species, class of material, units of measure, or other terms of the permit. Upon such notification, the department may amend the permit.

(6) The removal of forest products from more than 1 description within a township may be covered by a master cutting permit for that township. Master cutting permits shall include the same requirements as regular permits and shall include all descriptions in that township on which cutting will occur.

(7) Cutting permits shall be issued in such a manner that the department can maintain control over the descriptions covered and be able to audit forest products removed from those descriptions.

(8) The department shall send a copy of each cutting permit and permit supplement to the appropriate township treasurer at the time of issuance.

History: 1979 AC; 1987 AACS.

R 299.2607 Remittance report.

Rule 7. (1) Semiannual remittance reports as required by section 9 of the act shall be submitted by the owner of listed land on a form provided by the department. A report shall be identified as either intermediate or final.

(2) A final report shall include all forest products previously unreported that have been cut under that permit. Further cutting shall not be done under that permit.

(3) Semiannual reports shall be submitted while a permit is in effect even though forest products have not been cut during the reporting period.

History: 1979 AC; 1987 AACS.

R 299.2608 Withdrawal of listed land.

Rule 8. (1) When an owner desires to withdraw all or part of his or her listed land, he or she shall notify the department, in writing, of the descriptions to be withdrawn. 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 prepared in duplicate and indicating the withdrawal fees computed in accordance with section 7 of the act. Upon receipt of the signed withdrawal certificate in duplicate, together with the required withdrawal fees, the department shall certify the withdrawal as provided in section 7 of the act. The date of this certification shall be the effective date of the withdrawal.

(3) The 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.

History: 1979 AC; 1987 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 if the new owner wants the land to remain listed. If the new owner does not want to continue the listing, the owner of record shall be responsible for withdrawal of the listing before the title transfer is completed.

(2) The owner of record shall promptly notify the department, in writing, of a land sale or any other change in ownership of listed land.

(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) When 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 of record before the title transfer is completed.

(5) When listed land is being acquired by another entity whose land is exempted from ad valorem real property taxes pursuant to the provisions of Act No. 206 of the Public Acts of 1893, as amended, being S211.1 et seq. of the Michigan Compiled Laws, the land shall be withdrawn from listing by the owner of record before the title transfer is completed.

History: 1979 AC; 1987 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 occurs, the owner is liable to the department for the yield tax on the stumpage value of the forest products removed, as though the cutting had been done under permit from the department.

History: 1979 AC; 1987 AACS.

R 299.2612 Rescission.

Rule 12. The rules entitled "Rules and Regulations Concerning Commercial Forest Reserves," being R 299.261 to R 299.275 of the Michigan Administrative Code and appearing on pages 1925 to 1927 of the 1954 volume of the Code, are rescinded.

History: 1979 AC.