

Regulations of Connecticut State Agencies

TITLE 12. Taxation

Agency

Department of Environmental Protection

Subject

Policies and Standards for Evaluating Land Proposed for Classification as Forest Land

Inclusive Sections

§§ 12-107d-1—12-107d-5

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Policies and Standards for Evaluating Land Proposed for Classification as Forest Land

Sec. 12-107d-1. Definitions

As used in sections 12-107d-1 to 12-107d-5, inclusive, of the Regulations of Connecticut State Agencies:

(1) “Artificial regeneration” means trees grown by planting young trees, applying seed, using cuttings or by other similar means;

(2) “Contiguous “ means sharing a common boundary and under one ownership. Land under one ownership and traversed by a stream, river, pond, swamp, marsh, bog, lake or other body of water, public highway, power line, pipeline, railroad right of way or other easement may be considered as contiguous;

(3) “Day” means calendar day;

(4) “Diameter at breast height” (dbh) means the measurement in inches of the diameter of a tree at a point on the stem of a tree four and one half feet above ground level;

(5) “Forester” means any individual certified as a forester pursuant to section 23-65h of the Connecticut General Statutes;

(6) “Forest Land” means “forest land” as defined in section 12-107b of the Connecticut General Statutes;

(7) “Forest practice” means any activity which may alter the physical or vegetative characteristics of any forest land, including, but not limited to, any activity involving or associated with the cutting of trees or harvesting of forest products;

(8) “Forest type” means the description of a forest tract, based on the most common species present, including, but not limited to, white pine, red pine, hemlock, spruce/fir, oak/hickory, elm/ash/red maple, maple/beech/birch, and aspen/birch;

(9) “Municipality” means “municipality” as defined in section 12-107b of the Connecticut General Statutes;

(10) “Municipal land records” means the land records of town or towns in which the land proposed for or granted forest land classification is located;

(11) “Natural regeneration” means trees grown from natural seeding or vegetative reproduction;

(12) “Overstory” means those trees forming the uppermost or highest level of vegetative cover;

(13) “Owner” means the person listed in the municipal land records as the owner of the land classified as forest land or the land proposed for classification as forest land;

(14) “Person” means any individual, firm, partnership, association, corporation, limited liability company, company, organization or legal entity of any kind, including any political subdivision of the state or any state agency;

(15) “Pole” means a tree having a dbh greater than 5.5 inches and less than or equal to 11.5 inches;

(16) “Qualified forester” means any forester who has satisfactorily completed training by and obtained a certificate from the State Forester or his or her designee related to policies

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and standards for evaluating land proposed for classification as forest land and, in the opinion of the State Forester, acts in conformance with such policies and standards;

(17) “Sapling” means a tree having a dbh greater than 0.5 inches and less than or equal to 5.5 inches;

(18) “Sawtimber” means a tree having a dbh greater than 11.5 inches;

(19) “Seedling” means a tree having a dbh less than or equal to 0.5 inches;

(20) “Size class” means a grouping of tree diameter measurements used to describe a number of trees as primarily seedlings, saplings, poles, or sawtimber;

(21) “State Forester” means the individual referred to in section 23-19 of the General Statutes or his or her designee;

(22) “Tract” means a continuous or unbroken expanse of land under single ownership and bearing adequate tree cover generally distributed throughout its area. The following features shall be regarded as the bounds of a tract: acreage under a different ownership or acreage that does not meet the standards for forest land classification in section 12-107d-3 of the Regulations of Connecticut State Agencies. Lines of demarcation drawn on maps, including, but not limited to, municipal boundaries, assessor’s lot lines, and lines on subdivision maps are not to be regarded as a boundary of a forest tract;

(23) “Tree” means a woody perennial plant usually having one self-supporting stem or trunk which has a definitely formed crown and is normally expected to attain a mature height of over twenty feet;

(24) “Understory” means all forest vegetation growing under an overstory.

(Adopted effective July 27, 2006)

Sec. 12-107d-2. Training, certification and conduct of foresters in evaluating land proposed for forest land classification

(a) Upon adoption of sections 12-107d-1 to 12-107d-5, inclusive, of the Regulations of Connecticut State Agencies and not less than once per year thereafter, the State Forester or his or her designee shall make training in the content and practical application of sections 12-107d-1 to 12-107d-5, inclusive, of the Regulations of Connecticut State Agencies available to any forester.

(b) Upon a forester’s satisfactory completion of the training described in subsection (a) of this section, the State Forester shall issue a certificate to the forester, accrediting the forester as qualified to evaluate land proposed for classification as Forest Land pursuant to section 12-107d of the Connecticut General Statutes. The accreditation shall be valid for up to four years.

(c) Satisfactory completion of the training shall be attained when the forester correctly answers all of the questions in a written or oral examination administered by the State Forester or his or her designee at the conclusion of the training described in subsection (a) of this section.

(d) Upon satisfactory completion of the training described in subsection (a) of this section, a notation that the forester is qualified to evaluate land for classification as Forest

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Land pursuant to section 12-107d of the Connecticut General Statutes may be included in any listing or directory of foresters certified under section 23-65h of the Connecticut General Statutes that may be published by the State Forester.

(e) Each forester who has satisfactorily completed the training described in subsection (a) of this section shall submit to the State Forester, on or before June 1 of each year, one copy of a representative forester's report authored by said forester during the previous year and a listing of the landowners who have received forester's reports from that forester during the previous year. The listing shall include the name of the landowner and the town(s) within which the subject land is located.

(f) The State Forester may suspend, revoke or deny such accreditation to evaluate land for classification as Forest Land pursuant to section 12-107d of the Connecticut General Statutes if, in the State Forester's opinion, the forester fails to comply with the requirements of subsection (e) of this section or fails to comply with the standards and procedures established in sections 12-107d-3 and 12-107d-4 of the Regulations of Connecticut State Agencies.

(g) Upon suspending, revoking or denying accreditation pursuant to subsection (f) of this section, any existing notation that the forester is qualified to evaluate land for classification as Forest Land pursuant to section 12-107d of the Connecticut General Statutes shall be removed from any listing or directory of foresters certified under section 23-65h of the Connecticut General Statutes that may be published by the State Forester.

(h) A forester whose accreditation as a qualified forester under sections 12-107d-1 to 12-107d-5, inclusive, of the Regulations of Connecticut State Agencies has been revoked shall not be so accredited again until said forester has satisfactorily completed the training in subsection (a) of this section not less than two (2) years after the date of the revocation.

(Adopted effective July 27, 2006)

Sec. 12-107d-3. Standards for forest land classification

(a) A qualified forester may certify in writing that land meets the State Forester's standards for classification of land as forest land if the forester examines the subject land according to the procedures established in subsection (d) of section 12-107d-4 of the Regulations of Connecticut State Agencies and finds that it meets the following criteria:

(1) Tree Distribution.

Land proposed for forest land classification shall have trees distributed throughout its area except as provided in subparagraph (A) of subdivision (2) of this subsection.

(2) Area.

(A) Land proposed for forest land classification shall satisfy the requirements of section 12-107b(2) of the Connecticut General Statutes, provided that the following treeless features may be included in the total acres proposed for forest land classification, if the combined acreage of all such features is less than five (5) percent of the total acreage proposed for such classification:

(i) ledge outcrops that are surrounded by and contained within the forest land;

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- (ii) streams or rivers less than 100 feet wide;
- (iii) unpaved roads providing access only to the land proposed for forest classification, (paved roads or roads providing access to other land may not be included);
- (iv) ponds, lakes or other bodies of water less than one-half acre in size that are surrounded by and contained within the forest land;
- (v) power lines, pipe lines or other easements, provided the land within such easements is not cultivated or pastured;
- (vi) swamps, marshes or bogs that are surrounded by and contained within the forest land; and
- (vii) gravel pits or other excavated areas that are non-operating, entirely worked out, are less than one-half acre in size and are surrounded by and contained within the forest land.

(B) Land proposed for forest land classification shall exceed one hundred feet in width throughout its length, provided that land which otherwise satisfies the requirements of this subsection and which is less than one hundred feet in width throughout its length shall be eligible for classification as forest land if such land comprises the total real property of the owner at that location.

(3) Density of Tree Cover.

(A) Land proposed for forest land classification with trees established by natural regeneration may be classified as forest land if the number of trees per acre for the predominant size class meets or exceeds the following requirements. If two size classes predominate, the required density shall exceed the average of the requirements for the two size classes:

- (i) seedling: at least 600 trees per acre;
- (ii) sapling: at least 215 trees per acre;
- (iii) pole: at least 75 trees per acre; and
- (iv) sawtimber: at least 35 trees per acre.

(B) Land proposed for forest land classification with trees established by artificial regeneration may be classified as forest land one calendar year after the date of planting of such trees or three calendar years after the date of seeding if the requirements of subparagraph (A) of this subdivision are met.

(C) Land proposed for forest land classification with trees established and maintained for Christmas tree production may be classified as forest land if the requirements of this section are met and shall not be considered in violation of this subsection if harvested areas are replanted during the following growing season.

(4) Use.

(A) Land proposed for forest land classification with trees established and maintained for choose and cut Christmas tree production may be eligible for classification as forest land if the requirements of subparagraph (A) of subdivision (3) of this subsection are met.

(B) Land proposed for forest land classification, or land already so classified, may not be used for nursery stock production, production of Christmas trees that are harvested with their roots attached, as an orchard, or maintained as a landscaped area in conjunction with

residential, commercial or industrial areas.

(C) Land proposed for classification as forest land shall have been subject to the natural processes of forest growth and development for at least one calendar year prior to application and, if classified as forest land shall remain subject to natural processes. However, this does not preclude either Christmas tree culture or any forest practice undertaken on the land classified as forest land if such practice does not otherwise disqualify the land from classification as forest land.

(D) When residential, commercial or industrial structures are present upon the land, the land proposed for forest land classification shall not include that portion of the land required by local zoning ordinances to be associated with such residential, commercial or industrial structures.

(5) Ownership.

If land proposed for forest land classification consists of two or more parcels to be combined in order to meet or exceed the minimum acreage requirements, or if additional land is being added to land previously classified, the owner(s) of record shall be identical for all such parcels.

(6) Maintenance.

Land proposed for classification as forest land that bears evidence of a history of severe abuse shall also bear evidence that significant restorative measures have been employed to allow for proper forest development. Harvesting of forest products shall not be regarded as abuse, provided the remaining tree stumps are not removed.

(A) Severe abuse includes, but is not limited to, the use of the land: (i) as a landfill area; (ii) for storage of industrial or commercial materials; (iii) for hazardous waste disposal; or (iv) as a junkyard.

(B) Restorative measures shall include, at a minimum, the removal of all above ground industrial, commercial, waste or junkyard materials and, if appropriate, to allow for the proper development of forest growth, the control of non-native, invasive plant species.

(Adopted effective July 27, 2006)

Sec. 12-107d-4. Qualified forester's report

(a) **Cover Page.** The report of a qualified forester to an owner shall be in writing in permanent ink and shall include a cover page on a form prescribed by the State Forester. The cover page shall include:

- (1) the owner(s) of record as found in the municipal land records;
- (2) the name, address and telephone number of the owner(s) receiving the completed report from the forester;
- (3) the location of the real property containing the land proposed for forest land classification, including: the town or towns where it is located; the street address and map, block and lot number(s) as found in the municipal land records for each component lot containing the land proposed for forest land classification and the total acreage for each such component lot;

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(4) within each component lot containing the land proposed for forest land classification, the total number of acres that the qualified forester determines conform to the standards for forest land classification as found in section 12-107d-3 of the Regulations of Connecticut State Agencies;

(5) A signed statement by the qualified forester who has authored the report, stating in writing: “I swear that: (1) I have personally examined the land proposed for forest land classification in compliance with the policies, procedures and standards required by section 12-107d of the Connecticut General Statutes and its associated regulations; (2) the information contained in this report is true, accurate and complete to the best of my knowledge and belief; and (3) the land identified in the report as Forest Land meets the standards for such classification as established by the State Forester. I understand that failure to comply with such policies, procedures and standards shall be grounds for suspension or revocation of my certification to evaluate land for classification as Forest Land pursuant to section 12-107d of the Connecticut General Statutes.”;

(6) The name, address and forest practitioner certification number of the qualified forester who has authored the report;

(7) The handwritten signature of the qualified forester who has authored the report; and

(8) The date the report was transmitted to the owner(s).

(b) **Forest Stand Information.** The report of a qualified forester to an owner shall include forest stand information for each forest stand the forester identifies on the land. Such forest stand information shall be presented in the report on a form prescribed by the State Forester. The forest stand information shall include:

(1) The assigned stand number (tied to map pursuant to subsection (c) of this section);

(2) The total area of the stand in acres;

(3) The forest cover type present, based upon the species forming a plurality of live-tree stocking;

(4) The predominant species components of the forest overstory;

(5) The predominant size class, number of trees per acre, and condition of growing stock, including the forester’s general assessment of stocking level;

(6) A brief enumeration of existing forest health and protection issues, if any;

(7) A brief enumeration of existing special or unique features or values found in the forest;

(8) A brief narrative describing appropriate management actions that may be undertaken to enhance, conserve or protect the forest values of the stand in keeping with the owner’s goals for the land.

(c) **Map.** A qualified forester’s report prepared for an owner applying for forest land classification shall include maps containing, at a minimum, the following information and adhering to the following specifications:

(1) unfolded dimensions no larger than 17 inches by 22 inches;

(2) a map legend including a north arrow and map scale;

(3) a map title section indicating the name of the owner, the town or towns in which the

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land is located and the address of the real property containing the land proposed for forest land classification, as indicated in the applicable municipal land records, the date the map was prepared and the name of the individual who prepared the map;

(4) a small inset location map showing the outline of the property in relation to surrounding public roads;

(5) the boundaries of the real property containing the land proposed for forest land classification and its location with respect to the nearest public highways or roads;

(6) a delineation of the land proposed for forest land classification and of that portion of said land which has been determined to satisfy the standards for forest land classification as found in section 12-107d-3 of the Regulations of Connecticut State Agencies or any changes that the forester may be aware of to land previously classified as forest land;

(7) a delineation of the physical features of the land including, but not limited to: streams or rivers; paved or unpaved roads; ponds, lakes or other bodies of water, power lines, pipe lines, railroad rights of way or other easements; swamps, marshes or bogs; ledge outcrops; and houses, barns, buildings or other structures; and

(8) a delineation of each distinct forest stand within the land proposed for forest land classification. Such stands shall be numbered. If the forester believes that doing so will yield a more readable map, this required information may be prepared as an overlay to a base map containing all other information.

(d) **Data Collection.** The following requirements shall apply to the collection of data:

(1) The information and recommendations contained in a qualified forester's report shall be derived from a qualified forester's analysis of data concerning the subject land. Such data may be collected by any forester certified pursuant to section 23-65h of the Connecticut General Statutes;

(2) To judge whether overgrown field areas or areas planted one year previously contain sufficient stocking of seedlings, the forester shall count the number of live tree seedlings taller than six (6) inches that are found in no less than five (5) evenly spaced, one-hundredth acre plots (11.8 feet in radius) per acre. Areas represented by plots containing less than six (6) seedlings shall be deemed not forest;

(3) To determine tree species, size, density and condition in other areas, the forester shall employ point sampling, using a sampling instrument having a basal area factor of 10 square feet per acre and employing an appropriate sampling design.

(4) A qualified forester's report shall be based on point or plot data that is deemed reliable by the qualified forester and was collected from and concerning the land proposed for forest land classification not more than ten (10) years previous to the date the report is issued to the owner.

(e) **Issuance of Report.** Upon completion of a qualified forester's report, the forester shall provide the original report to the owner and retain one copy.

(f) **Appeal of qualified forester's findings.**

(1) Within thirty (30) days of receipt of the qualified forester's report, the owner of land classified as forest land or land proposed for classification as forest land may appeal to the

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State Forester for the State Forester's review of the qualified forester's findings with respect to: (i) the total number of acres within said property determined to satisfy the standards for forest land classification as found in section 12-107d-3 of the Regulations of Connecticut State Agencies; or (ii) the qualified forester's delineation of the land determined to satisfy the standards for forest land classification as found in section 12-107d-3 of the Regulations of Connecticut State Agencies or any changes in land previously classified as forest land. Such appeal shall be in writing and shall succinctly state the reason(s) for and facts of the appeal. A copy of the qualified forester's report shall be attached to the written appeal.

(2) Within thirty (30) days of receipt of a completed "Application To The Assessor For Classification Of Land As Forest Land," including a qualified forester's report, the assessor of any municipality within which the land classified as forest land or land proposed for classification as forest land is located may appeal to the State Forester for the State Forester's review of the qualified forester's findings with respect to: (i) the total number of acres within said property determined to satisfy the standards for forest land classification as found in section 12-107d-3 of the Regulations of Connecticut State Agencies; or (ii) the qualified forester's delineation of the land determined to satisfy the standards for forest land classification as found in section 12-107d-3 of the Regulations of Connecticut State Agencies or any changes in land previously classified as forest land. Such appeal shall be in writing and shall succinctly state the reason(s) for and facts of the appeal. A copy of the qualified forester's report shall be attached to the written appeal.

(3) Within five (5) business days of receiving such an appeal for review, the State Forester shall provide written notice of the appeal to the appellant, the qualified forester and either the owner or municipal assessor, whichever is not the appellant.

(4) Upon receipt of an appeal for review, the State Forester shall review the report of the qualified forester and any information upon which the qualified forester relied in developing his or her findings and may gather additional information at his or her discretion. The State Forester shall render the results of his or her review of the qualified forester's report to the appellant, in writing, not later than sixty days after the date the appeal was received and shall provide a copy of the results to the qualified forester and either the owner or municipal assessor, whichever is not the appellant.

(5) The State Forester may request copies of any information upon which a qualified forester relied in developing any qualified forester's report, including, but not limited to, point or plot sampling data, field notes, work maps, reference materials, and aerial photos. The qualified forester shall furnish such copies to the State Forester within fourteen (14) days of the State Forester issuing such request.

(g) Records Retention Requirements.

(1) A qualified forester shall maintain any information upon which the forester relied in developing any qualified forester's report, including, but not limited to, point or plot sampling data, field notes, work maps, reference materials, and aerial photos for not less than five (5) years from the date the qualified forester's report is transmitted to the owner(s) and municipal assessor(s).

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(2) The State Forester shall maintain any information upon which he or she relied during any appeal-derived review of the findings of a qualified forester report and the results of his or her review of same for not less than five (5) years from the date the results of the State Forester's review are transmitted to the owner(s) and municipal assessor(s).

(Adopted effective July 27, 2006)

Sec. 12-107d-5. Inspections by the state forester

In the performance of his or her duties under section 12-107d of the Connecticut General Statutes and sections 12-107d-1 to 12-107d-4, inclusive, of the Regulations of Connecticut State Agencies, the State Forester or his or her designee may, pursuant to subdivision (5) of subsection (a) of section 22a-6 of the Connecticut General Statutes, enter at all reasonable times, in accordance with constitutional limitations, upon public or private property, for the purpose of determining compliance with the requirements of section 12-107d of the Connecticut General Statutes and sections 12-107d-1 to 12-107d-4, inclusive, of the Regulations of Connecticut State Agencies.

(Adopted effective July 27, 2006)