

IMPORTANT INFORMATION FOR CONNECTICUT STATE AGENCIES

Please review the accompanying instruction page and disclaimer before completing and submitting this notice for posting to the eRegulations System website. Please contact the Secretary of the State's Office at 860-509-6009 if you have questions.

Notice of Intent

In accordance with the provisions of Section 4-168(a) of the *Connecticut General Statutes* (CGS) the Department of Energy and Environmental Protection hereby gives notice that it proposes to adopt a regulation concerning technical updates to provisions of RCSA 12-107d Classification of Land as Forestland for Property Taxation Purposes.

Comment period (See CGS section 4-168(a)(1)(A))

A comment period of not less than thirty days shall begin upon posting of this notice to the eRegulations System website and shall end on **Friday January 6, 2017**.

Detailed description of the proposed regulation. (See CGS Sec. 4-168(a)(1)(B))

Proposed regulation revisions clarify common misinterpretations, vague language, and a definition error as well as clarification based upon recent case law.

Explanation: [red bracket text proposed for elimination], [blue underline proposed for replacement or addition](#).

- 1) Section 12-107d-1(19). **Definitions.** "Seedling" means a tree [having a dbh less than or equal to 0.5 inches] [taller than six \(6\) inches and less than three \(3\) feet in height](#).

Seedlings do not obtain "dbh" height (diameter at breast height is about 4.5 feet). Revised definition also provides consistency with 12-107d-4(d) **Data Collection** for overgrown fields or areas of one year plantings.

- 2) Section 12-107d-3(a)(3)(A) **Standards for Forest Land Classification, Density of Tree Cover.** If two size classes predominate, the required [cumulative](#) density shall exceed the average of the requirements for the two size classes.

Clarifies the procedure to determine sufficient tree stocking if two predominate size classes are present in a forest stand.

- 3) Section 12-107d-3(a)(3)(C) **Standards for Forest Land Classification, Density of Tree Cover.** 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 [or required density of tree cover is retained](#).

Partial harvest of Christmas trees should not disqualify classified acreage as long as remnant trees numbers per acre meet minimum tree density standards as described in RCSA 12-107d-3(3)(A). Christmas tree production often well exceeds minimum density requirements thus allowing partial removals without immediate replanting.

- 4) Section 12-107d-3 (a)(4)(C) **Use.** 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, [young forest maintenance](#), or any [other](#) forest practice undertaken on the land classified as forest land if such practice does not otherwise disqualify the land from classification as forest land.

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 State of Connecticut
 Office of the Secretary of the State



Creation and maintenance of young forest is an acceptable practice and encouraged by the Department of Energy and Environmental Protection as many wildlife species of greatest concern require young forest for critical habitat. Forest land that is periodically cut to create and maintain young forest characteristics qualifies as classified forest land as long as minimum per acre tree density is present.

- 5) Section 12-107d-3(a)(4)(E) **Use.** [Reserve building lots that meet local zoning ordinances and all other requirements for forest land classification shall not be withheld from forest land classification unless requested by application of the owner.](#)

Canterbury Farms, Et al. v. Waterford Board of Tax Review affirmed a structure must be present on the parcel proposed for PA490 classification for a house lot to be assessed separately. This is essential for forest tracts that otherwise meet minimum acreage requirements but may not if a minimal zoned building lot is automatically subtracted from the proposed classified acreage.

- 6) Section 12-107d-4(d)(3) **Qualified Forester's Report, Data Collection.** 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]** [appropriate for existing forest stocking](#) and employing an appropriate sampling design.

Foresters qualified to evaluate forest land for classification are certified as forest practitioners under CGS 23-65h at the "forester" level. To obtain this certification, individuals must pass a rigorous exam that includes technical skill assessment for proper forest inventory methods. The current regulation is overly prescriptive and may not be appropriate under certain forest conditions. Certified foresters have demonstrated competency to determine the most appropriate sampling method to ascertain tree species, size, and density.

Statement of the purposes for which the regulation is proposed. (See CGS Sec. 4-168(a)(1)(C))

To **provide** Minor technical updates to commonly misunderstood provisions of RCSA 12-107d Classification of Land as Forestland for Property Taxation Purposes.

Statutory authority (See CGS Sec. 4-168(a)(1)(D))

CGS 12-107d Regulations reevaluation of land as forest land. Implementation of standards and procedures. Certification requirements. Fees. Notice of termination of forest land classification. Application for classification as forest land. Appeal. Report to State Forester.

When, where and how to obtain a copy of the small business impact statement and, if applicable, the regulatory flexibility analysis required pursuant to Sec. 4-168a. (See CGS Sec. 4-168(a)(1)(E))

Copy of the small business impact statement may be obtained electronically or hard copy by contacting;

Connecticut Department of Energy and Environmental Protection
 Division of Forestry
 79 Elm Street
 Hartford, CT 06106

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Office of the Secretary of the State



Phone: (860) 424-3630
Fax: (860) 424-4070
deep.forestry@ct.gov

When, where and how interested persons may present their views on the proposed regulation

(See CGS Sec. 4-168(a)(1)(F))

Interested persons may present their views on the proposed regulation in writing or in person. Written comments may be submitted by close of business January 6, 2017 electronically or in hard copy to:

Connecticut Department of Energy and Environmental Protection
Division of Forestry
79 Elm Street
Hartford, CT 06106
Fax: (860) 424-4070
deep.forestry@ct.gov

In person comments may be presented at a **public meeting 2PM Thursday January 5, 2017** at Gina McCarthy Auditorium, 79 Elm Street Hartford, CT 06106.

November 22, 2016

A handwritten signature in blue ink that reads "Christopher R. Martin".

(signature)
Christopher Martin
Director/State Forester