

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 42.20.171, 42.20.620,) PROPOSED AMENDMENT
42.20.701, 42.20.735, 42.20.740, and)
42.20.750 pertaining to land)
classification, natural disaster)
reduction, and forest land eligibility)
and valuation)

TO: All Concerned Persons

1. On September 11, 2017, at 3 p.m., the Department of Revenue will hold a public hearing in the Third Floor East PAD Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment of the above-stated rules. The hearing room is most readily accessed by entering through the east doors of the building facing Sanders Street.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5 p.m. on August 25, 2017, to advise us of the nature of the accommodation you need. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

42.20.171 LAND CLASSIFICATION DETERMINATION DATE FOR CLASS THREE, FOUR, AND TEN PROPERTY (1) and (2) remain the same.

(3) The appropriate land classification will be determined for the purpose of tax assessment based on the land's use as of January 1 of the current year. The following examples are intended to demonstrate how the correct land classifications are established for the current year:

(a) remains the same.

(b) Example 2 - A taxpayer ~~files an application for~~ requests forest land classification of their property by submitting a Request for Informal Classification and Appraisal Review, Form AB-26, on May 1. The department's decision is based on the property's use on January 1 of the current year and the property's ability to meet the forest land eligibility rules pursuant to ARM 42.20.705, 42.20.710, and 42.20.735;

(c) remains the same.

(d) Example 4 - A taxpayer purchases a parcel of land on May 1 of the current year. The parcel was classified as forest land on January 1 of the current year. The taxpayer ~~files an~~ requests a review of the forest land productivity by

submitting a Request for Informal Classification and Review, Form AB-26, within 30 days of receipt of the assessment from the date on the property classification and appraisal notice requesting that the department review the forest land productivity for the property. If the department determines that a change in productivity is appropriate, the change is effective for the current year because the basis for the property's productivity existed on January 1 of the current year; and

(e) remains the same.

AUTH: 15-1-201, MCA

IMP: 15-6-133, 15-7-103, 15-7-201, 15-7-202, 15-7-203, 15-7-206, 15-7-207, 15-7-208, 15-7-209, 15-7-210, 15-7-212, MCA

REASON: The department proposes amending ARM 42.20.171 to update the examples in the rule with current terminology and add helpful detail.

The department proposes striking outdated language in (3)(b), regarding the filing of an application. Land that meets the definition of forest land in 15-44-102, MCA, automatically qualifies for forest land classification. If a property owner believes their property is incorrectly classified, they can submit a Request for Informal Classification and Appraisal Review, Form AB-26. The department further proposes inserting the name of this form in the section as a reference.

The department also proposes restructuring the language in the second sentence in (d) to improve the order of the content and remove outdated language. As restructured, the action will be stated at the beginning of the sentence and the term "files" will be replaced with "submitting," in keeping with the current term used by the department. The language regarding receipt of the classification and appraisal notice is also proposed to be changed to reference the date on the notice instead. This reflects the department's current process, which connects the review filing deadline to a specific date rather than a general timeframe. The department further proposes adding the full names of the notice "property classification and appraisal notice" and the Form AB-26 into the rule to more clearly identify these documents for the property owner.

The proposed amendments to this rule are unrelated to amendments being proposed for other rules in this same notice to implement new legislation.

42.20.620 CRITERIA FOR AGRICULTURAL LAND VALUATION FOR LAND TOTALING LESS THAN 160 ACRES (1) through (12) remain the same.

(13) A parcel or parcels of land that meet the criteria in (12)(a) through (d) are eligible for the classification determination identified in (12) regardless of when the acreage reduction occurred. However, taxpayers must notify the department of their eligibility in writing by ~~the first Monday in June or~~ submitting a Request for Informal Classification and Appraisal Review, Form AB-26, within 30 days after from the date on the assessment classification and appraisal notice for eligibility to begin in the first year of the two-year valuation cycle, or by June 1 in the second year of the valuation cycle for eligibility to begin in the second year.

(14) and (15) remain the same.

AUTH: 15-1-201, MCA

IMP: 15-7-102, 15-7-201, 15-7-202, 15-7-203, 15-7-206, 15-7-207, 15-7-208, 15-7-209, 15-7-210, 15-7-212, MCA

REASON: The department proposes amending ARM 42.20.620, to remove and replace outdated language and insert missing detail to improve clarity. Specifically, in (13), the department proposes adding the full name and number of the form that property owners need to use if they want to have the classification of their land reviewed. Also, the language referencing the receipt of the classification and appraisal notice is being changed to reference the date on the notice instead. This reflects the department's current process, which connects the review filing deadline to a specific date rather than a general timeframe.

The department further proposes adding language specifying the cutoff date for filing a review request in the second year of a valuation cycle into this section, to conform with the clarification in House Bill 43, L. 2017, that an appeal of values in the second year of the appraisal cycle applies only to that year of the cycle and not to both years. Section 15-7-102, MCA, is also proposed to be added as an implementing statute for the rule in support of this new provision.

42.20.701 DEFINITIONS The following definitions apply to this subchapter:

(1) "Associated forest land management use" means the intended use of a structure is to support the growth and harvest of timber on the subject property.

~~(4)~~(2) "Capable of producing timber that can be harvested in commercial quantity" means:

(a) through (c) remain the same.

(d) does not meet the stocking requirement specified in ~~(4)~~(b) and or (c), but has had the trees removed by man through timber harvest or by fires and other natural disasters, and has been, or will be, naturally or artificially regenerated within ten years.

(2) remains the same, but is renumbered (3).

~~(3)~~(4) "Contiguous parcels of land" means separately described parcels of land under one ownership that physically touch one another or would have touched one another were the acreages not separated by:

~~(a) deeded roads and highways; meandered and returned as navigable by the surveyors employed by the government of the United States;~~

~~(b) rivers and streams; that have been adjudicated as being~~

~~(c) navigable; rivers and streams;~~

~~(d) railroad lines; or~~

~~(e) federal or state land that is leased from the federal or state government by the taxpayer whose land is physically touching the federal or state land.~~

(4) through (9) remain the same, but are renumbered (5) through (10).

~~(10)~~(11) "Land use" means land placed into a certain the type of service or utilization of the land.

(11) and (12) remain the same, but are renumbered (12) and (13).

(14) "Navigable rivers and streams" means meandering rivers and streams determined navigable by the United States government surveyors and as determined by common law.

~~(13)~~(15) "Noncontiguous parcels of land" means parcels of land under one ownership that are physically separated from one another by land in a different ownership other than:

(a) deeded roads and highways;

(b) rivers and streams, ~~meandered and returned as;~~

(c) ~~navigable by the surveyors employed by the government of the United States,~~ rivers and streams; ~~that have been adjudicated as being navigable,~~

(d) railroad lines; or

(e) federal or state land that is leased from the federal or state government by the taxpayer whose land is physically touching the federal or state land.

(14) through (17) remain the same, but are renumbered (16) through (19).

~~(18)~~(20) "Producing timber" ~~is defined as~~ means growing trees, including trees removed through harvest, clear-cut, or by natural disaster, such as fire.

(19) through (21) remain the same, but are renumbered (21) through (23).

~~(22)~~(24) "Site" means ~~the capacity of~~ at least 15 contiguous acres with the capacity to grow timber.

(23) through (27) remain the same, but are renumbered (25) through (29).

AUTH: 15-44-105, MCA

IMP: 15-1-101, 15-44-101, 15-44-102, 15-44-103, MCA

REASON: The department proposes amending ARM 42.20.701 to define a new term based on recently enacted legislation, remove unnecessary verbiage, make grammatical corrections, insert missing detail, and revise and move an existing definition for ease of locating.

The department proposes adding and defining the term "associated forest land management use," in new (1), based on the recent passage of House Bill (HB) 583, L. 2017, which revised property taxes for forest land with residential or commercial use, and added this term to 15-16-134, MCA. To implement HB 583, the department is adding the term to ARM 42.20.750, which necessitates defining the term in this definitions rule. This is the only legislative-related change being proposed for this rule.

The department also proposes updating the definition of "contiguous parcels of land," in newly numbered (4), to remove excess language, set rivers and streams and navigable rivers and streams apart for clarity, and restructure the content to replace a long, potentially confusing sentence with an outline that separately provides the instances where contiguous parcels of land do not necessarily need to physically touch each other. The language proposed to be stricken is excess and unnecessary to include. The department further proposes striking the details pertaining to the term "navigable rivers and streams" from this definition, and also from the definition of "noncontiguous parcels of land," in newly numbered (15), and revising and relocating the definition separately, as new (14), for clarity and ease of locating alphabetically.

The department further proposes revising the definition of "land use," in newly numbered (11), by striking the statement "land placed into a certain type of service or utilization" and replacing it with "the type of service or utilization of the land," to simplify the statement.

And finally, the department proposes updating the definition of "producing timber," in newly numbered (20), to insert a missing reference to the growing of trees and properly format the lead-in statement by removing and replacing "is defined as" with "means," and amending the definition of "site," in newly numbered (24), by relocating the word "capacity" within the sentence to better convey the intended meaning.

42.20.735 FOREST LAND ELIGIBILITY - GENERAL PRINCIPLES OWNERSHIP (1) and (2) remain the same.

~~(3) The property owner of record or the owner's agent must provide proof of eligibility on an application form prescribed by the department.~~

~~(a) Forest land application forms will be available at the local department office. Applications must be submitted to the local department office in the county in which the property is located on or before the first Monday in June of the current tax year or within 30 days after the date on the assessment notice.~~

~~(b) An annual application is not required. The owner or owner's agent need reapply only under the following conditions:~~

~~(i) the landowner believes they meet eligibility requirements and wants the department to consider the classification of the land as forest land;~~

~~(ii) the department has reclassified the property because of a change in the eligibility of the property, a change in property use or a change in ownership.~~

~~(c) The department shall review the application and may conduct a field evaluation. The department will approve or deny the application and return a copy of the form with the written decision to the property owner or the owner's agent.~~

~~(d) An applicant for forest land classification who is dissatisfied with the department's determination may appeal to the appropriate county tax appeal board pursuant to 15-15-101, MCA.~~

~~(4)~~(3) All terms and classification procedures pertaining to forest lands are in ARM 42.20.701, 42.20.705, 42.20.710, 42.20.715, 42.20.720, 42.20.725, 42.20.730, 42.20.735, 42.20.740, and 42.20.745, and the "Montana Forest Land Classification and Appraisal Manual" as compiled by the department and available at a local department office or on the department's web site, revenue.mt.gov.

AUTH: 15-1-201, 15-44-105, MCA

IMP: 15-44-101, 15-44-102, 15-44-103, 15-44-104, MCA

REASON: The department proposes amending ARM 42.20.735 to strike the language in (3), because it details an outdated application process for forest land classification. Land that meets the definition of forest land in 15-44-102, MCA, automatically qualifies for forest land classification. However, if a property owner believes their property is incorrectly classified, they can submit a Request for Informal Classification and Appraisal Review (Form AB-26). This section of the rule also notes a property owner's right to appeal the classification of their property to the county tax appeal board, which is no longer necessary to include in the rule with the application process removed.

The department further proposes updating a material reference, in newly numbered (3), to reflect the current title of the document and also proposes revising

the title of the rule to better reflect the content of the rule as amended.

The proposed amendments to this rule are unrelated to amendments being proposed for other rules in this same notice to implement new legislation.

42.20.740 NATURAL DISASTER REDUCTION - GENERAL PRINCIPLES

(1) remains the same.

(2) The property owner of record as of January 1 of the first full tax year for which the reduction in value is sought, or that owner's agent, must ~~complete an application with~~ submit to the local department office in which the county where the property is located a Request for Informal Classification and Appraisal Review, Form AB-26. ~~The application prescribed by the department will be the property adjustment Form AB-26. The application must be made on or before the first Monday in June or within 30 days after~~ from the date on the assessment classification and appraisal notice for in the first full year for which the reduction in value is requested of the six-year valuation cycle or by June 1 of any subsequent year of the valuation cycle for eligibility to begin in that subsequent year.

~~(3) The department shall review the property adjustment form and may conduct a field evaluation. The department will issue a written determination to the applicant.~~

~~(4)~~(3) The applicant shall include on the property adjustment form following information must be included on the Form AB-26:

(a) through (g) remain the same.

~~(5)~~(4) Forest land shall be eligible for a 50 percent reduction in assessed value provided:

(a) remains the same.

(b) the forest land affected contained at least 10 percent stocking of live trees prior to the natural disaster; and

(c) the forest land affected contains 10 percent stocking or less of live trees after the occurrence of the natural disaster; ~~and~~

~~(d) the applicant has timely filed the request for valuation review, as required in (2), and the natural disaster occurred after December 31, 1993.~~

(5) A reduction to the assessed value in the first year is applicable to all years in the reduction period, as provided for in (1). A reduction in assessed value for an appeal filed in years after the first year applies to the year in which the appeal is timely filed and the remaining years in the reduction period.

(6) The department shall review the Form AB-26 and may conduct a field evaluation. The department will approve or deny the request and notify the property owner of its determination in writing.

AUTH: 15-1-201, 15-44-105, MCA

IMP: 15-7-102, 15-44-101, 15-44-102, 15-44-103, 15-44-104, MCA

REASON: The department proposes amending ARM 42.20.740 to implement House Bill (HB) 43, L. 2017, which authorized an informal review deadline for the second year in a property valuation cycle; and also proposes restructuring some of the existing rule content to improve clarity, and removing outdated language that no longer needs to remain in the rule.

The updates in (2) are being proposed to add the filing deadlines for property owners to submit a Request for Informal Classification and Appraisal Review, Form AB-26, for the different years in the valuation cycle, to add the full name of the form to the language, and to specify where the form is to be submitted.

The department also proposes striking the language in existing (3) and relocating the relevant information to the end of the rule, as new (6), to properly align the order of the rule content with the order of events for better clarity. The remaining language being stricken in this section of the rule is outdated terminology that is no longer necessary to include in the rule.

The department further proposes removing outdated language and making a grammatical change to the lead-in sentence in newly numbered (3), for better clarity, and striking (d) from newly numbered (4) entirely, because it is an unnecessary duplication of information covered elsewhere in the rule.

The department also proposes adding the new language in (5) to correspond with the clarifying language in HB 43 that an appeal may be made in any year of a valuation cycle, and to make it clear that any reduction in assessed value of the property will apply only to the year the appeal was timely filed and any years that remain in the valuation cycle. Section 15-7-102, MCA, is also proposed to be added as an implementing statute for the rule in support of this new provision.

42.20.750 VALUATION OF ONE ACRE BENEATH IMPROVEMENTS ON FOREST LAND (1) A market valuation will be made for each one-acre area beneath each the residence(s) which is located on forest land as provided in ARM 42.20.705.

(a) through (e) remain the same.

~~(f) To avoid double taxation, the productive capacity value for the one-acre area beneath the residence(s) on forest land must be subtracted from the productive capacity value for the entire property ownership.~~

(2) Land under structures associated with forest land management will be valued as forest land. If there is a residence on the same land as the structures associated with forest land management practices, the one-acre area beneath each residence is valued at market value.

(2) remains the same, but is renumbered (3).

AUTH: 15-44-105, MCA

IMP: 15-6-134, 15-7-103, 15-7-201, 15-7-202, 15-8-111, MCA

REASON: The department proposes amending ARM 42.20.750 to eliminate outdated language from the rule and to insert new language based on the enactment of House Bill 583, L. 2017, which revised property taxes for forest land with residential or commercial use and classified the one acre beneath a residence on forest land as class four property that is valued at market value.

The proposed amendments include correcting a grammatical error in (1), striking (1)(f), because each acre of land is classified according to its use rather than the method currently stated in that section of the rule, and adding new (2), to specify the exclusion of the one-acre of land beneath each residence from valuation as forest land.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov and must be received no later than September 21, 2017.

5. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct this hearing.

6. The Department of Revenue maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding a particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 4, faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

7. An electronic copy of this notice is available on the department's web site at revenue.mt.gov/rules, or through the Secretary of State's web site at sos.mt.gov/ARM/register.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary sponsor of House Bill 43, Representative Dave Fern, and the primary sponsor of House Bill 583, Representative Kerry White, were both contacted by regular mail on June 14, 2017 and July 24, 2017.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses. Documentation of the department's determination is available at revenue.mt.gov/rules or upon request from the person in 4.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State August 7, 2017.