

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Natural Resources

Bureau name:

Forest Resource Division

Name of person filling out RIS:

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Rule Set Information:

ARD assigned rule set number:

2021-75 NR

Title of proposed rule set:

Commercial Forests

Comparison of Rule(s) to Federal/State/Association Standard

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

There are no federal or industry standards for property tax incentive programs for private forestlands.

A. Are these rules required by state law or federal mandate?

The Department of Natural Resources (DNR) is required to promulgate rules to implement Part 511, Commercial Forests, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA).

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

These rules do not exceed a federal standard.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

Michigan's Commercial Forest property tax incentive program is unique compared to tax incentive programs for private forestland in Wisconsin and Minnesota. The statutes for the programs in each of the three states vary significantly, so

it's not possible to compare standards across states.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

The rules do not exceed standards in those states.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

There are no other laws, rules, or legal requirements that duplicate, overlap, or conflict with the proposed rules.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

These rules only apply to land that is in the Commercial Forest program. They have been coordinated with Part 511, which requires rules to be promulgated. There are no other federal, state, or local laws applicable to the same activity or subject matter.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, provide a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules.

MCL 24.232(8) does not apply.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, provide either the Michigan statute that specifically authorizes the more stringent rules OR a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules.

MCL 24.232(9) does not apply.

Purpose and Objectives of the Rule(s)

6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

The proposed rules are designed to remove language conflicting with Part 511, clarify the requirements and procedures and assist the DNR in ensuring that the purposes of Part 511 are accomplished.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

The proposed rules would ensure compliance with the statutory requirements, but will not change the behavior to any greater extent than the current rules.

B. Describe the difference between current behavior/practice and desired behavior/practice.

Currently, the public is confused with language in the rules that conflict with Part 511. The proposed rules will eliminate language contrary to Part 511 and provide clarity to the public.

C. What is the desired outcome?

The proposed rules will eliminate conflicts with Part 511 and provide clarification.

7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

Currently the rules allow behavior from commercial forest owners that is contrary to Part 511. This has caused an increase in noncompliant commercial forest owners, resulting in owners having to withdraw their land from the program.

A. What is the rationale for changing the rules instead of leaving them as currently written?

The rules must be changed to remove language contrary to Part 511 so that owners are not in violation of the program. In addition, clarification is needed so commercial forest owners and those considering putting their land in the program are fully informed about the requirements of the program.

8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The program supports and improves the timber industry and provides land for public hunting and fishing.

9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

There are no rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

Fiscal Impact on the Agency

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, higher contract costs, programming costs, changes in reimbursements rates, etc. over and above what is currently expended for that function. It does not include more intangible costs for benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

There will be no change in administrative cost for the DNR as a result of this rule revision.

11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

Section 51112 of Part 511 established a Commercial Forest fund. Application fees are to be deposited to the fund. No additional costs to the agency will result from the proposed rules.

12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The proposed rules are necessary for the DNR to administer the commercial forest program and to make sure there is consistency with the program. In addition, landowners need to know what their responsibilities are under the program. The rules do not place a burden and only clarify the requirements under Part 511. Landowners voluntarily enroll.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

There are no identified burdens.

Impact on Other State or Local Governmental Units

13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

There are no anticipated changes to revenue to other state or local governmental units associated with these rules.

The proposed rules will not result in any substantive increase or reduction in cost for other state or local governmental units.

14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

There are no programs, services, duties, or responsibilities imposed upon any city, county, town, village or school district by these rules.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

There are no requirements for record keeping or reporting from any governmental unit as a result of these rules.

15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

An appropriation to other state or local governmental units has not been made and is not required or necessary as a result of these rules.

Rural Impact

16. In general, what impact will the rules have on rural areas?

The proposed rules have a greater impact on rural areas because the majority of Michigan's private forestland is located in rural areas and Part 511 requires a minimum of 40 acres to be in the program. In addition, the current rules state that

land in a village or city is not eligible.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

The rules clarify the public interest in accessing commercial forest land for hunting and fishing. Certain land uses are regulated under Part 511. These rules do not negate private property rights.

Environmental Impact

17. Do the proposed rules have any impact on the environment? If yes, please explain.

The commercial forest program protects large blocks of private forestland from development or other uses. These rules do not provide any substantive change in environmental protection from the existing rules they replace.

Small Business Impact Statement

18. Describe whether and how the agency considered exempting small businesses from the proposed rules.

The program is voluntary and all ownership types can apply. The rules are equitable to all commercial forest landowners and follow the requirements of Part 511.

19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

No significant economic impacts to small businesses are anticipated as a result of these rules. These rules follow the requirements of Part 511.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

The DNR does not have knowledge of the business size of CF landowners. However, the majority of commercial forest land is owned by approximately 20 large businesses. Approximately 1500 individuals and 150-200 owners that may qualify as small businesses own the remaining commercial forest land. The proposed rules provide uniform requirements.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

No changes in compliance or reporting requirements for small businesses are anticipated as a result of these rules.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

Since no changes in compliance or reporting requirements for small businesses are anticipated as a result of these rules, no consideration or simplification was undertaken.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

There are no design or operation standards to be replaced.

20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

There is no disproportionate impact on small businesses due to size or geographic location.

21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

There are no reporting requirements for small businesses resulting from these rules. These rules specify forms to be used, time frames, and other information but do not create any new reports that are not required by Part 511.

22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

There are no costs of compliance for small businesses resulting from these rules.

23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

There are no legal, consulting, or accounting services that will be incurred by small businesses as a result of these rules.

24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

There are no new costs to small businesses, no economic harm, and no adverse effect on the marketplace that will result from these rules.

25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

There are no lesser standards for compliance by small businesses than other commercial forest landowners, so there is no cost to the administering agency.

26. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

There is no impact to the public because there are no lesser standards of compliance for small businesses.

27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

The proposed rules included input DNR received from commercial forest landowners. Small businesses were not specifically identified.

A. If small businesses were involved in the development of the rules, please identify the business(es).

Small businesses were not specifically identified as providing input regarding the rules.

Cost-Benefit Analysis of Rules (independent of statutory impact)

28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

The proposed rules will not increase compliance costs for businesses or groups.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

Businesses that will be affected include small to large industrial forestland owners and many nonindustrial owners.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

The proposed rules will not have any greater effect on these businesses than the existing rules.

29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

The proposed rules will not increase compliance costs for individuals.

A. How many and what category of individuals will be affected by the rules?

Individuals who own private forestland in the commercial forest program are affected by the rules.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

The proposed rules will not have any greater affect on individuals than the existing rules.

30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

There are no cost reductions to businesses, individuals, groups of individuals, or governmental units in the proposed rules that are in addition to the existing rules.

31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

Benefits include rules that are not in conflict with Part 511 and clarification of administrative processes.

32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The proposed rules will not have a positive or negative impact on business growth or job creation when compared to the existing rules.

33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

The rules only apply to private forest landowners who have voluntarily enrolled their land in the program. No commercial forest owners will be disproportionately affected by these rules.

34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

The preparation of this statement is based on the knowledge of the DNR staff who administer the program and information provided by previous staff.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., that demonstrate a need for the proposed rules.

References used for compiling this statement are Part 511 and the previous rule set that was compiled in 2013 by DNR staff.

Alternative to Regulation

35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

There are no other alternatives that would achieve the same or similar goals.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

There are no alternatives, so there are no statutory amendments that may be necessary.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

A market-based system would not be feasible to ensure the expected return on the large public investment in this program. There is no comparable market-based systems utilized by other states for this type of program.

37. Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rules. This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

There were no alternatives considered during the development of the proposed rules.

Additional Information

38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

The commercial forest website (www.Michigan.gov/CommercialForest) provides a variety of information including: Commercial Forest Summary, Part 511, Administrative Rules, and Forest Management Plan Requirements.