STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R03/2012)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
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MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number
Ch. NR 46, Forest Tax Program. Board order FR-23-16.

3. Subject
Relating to the forest tax law programs (Managed Forest Law and Forest Crop Law)

4. Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☒ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected
None

6. Fiscal Effect of Implementing the Rule
☐ No Fiscal Effect ☐ Increase Existing Revenues ☐ Increase Costs
☒ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget
☐ Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy ☒ Specific Businesses/Sectors
☒ Local Government Units ☐ Public Utility Rate Payers
☐ Small Businesses **(if checked, complete Attachment A)**

8. Would Implementation and Compliance Costs Be Greater Than $20 million?
☐ Yes ☒ No

9. Policy Problem Addressed by the Rule

Changes to Ch. NR 46, Wis. Adm. Code, to become consistent with statutory changes in ch. 77, Wis. Stats. 2015 Wisconsin Act 358 was signed into law on April 14, 2016. This act made a number of changes to the administration of the Forest Tax Programs. Chapter NR 46, Wis. Adm. Code, needs to be amended as a result of Act 358 to reflect current statutory language. Additional changes to ch. NR 46, Wis. Adm. Code, were also pursued in this proposed rule to incorporate longstanding policy into rule and streamline and clarify administration of the MFL and FCL programs.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

As part of the solicitation process, the department will solicit feedback from landowner groups, representative from towns and counties, private and department foresters, cooperating foresters, certified plan writers, and forest product industry partners.

11. Identify the local governmental units that participated in the development of this EIA.

None.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

There are varying economic impacts associated with the passage of Act 358 in April 2016. This analysis on the proposed changes to ch. NR 46, Wis. Adm. Code, will only include evaluation of economic impacts resulting from the DNR's implementation of statutory provisions. It is anticipated that the proposed changes to ch. NR 46, Wis. Adm. Code, will have minimal to moderate economic impacts and will not have an impact on small businesses. The total cost of implementing NR 46 changes is estimated to be less than $50,000 per year. Some of these changes will impact municipalities and counties opposite the impact to the landowners to a lesser degree than the impact to the landowner, others will not impact the municipalities at all. The flexibilities offered by this proposed rule are expected to save land owners approximately $90,000 per year. The changes within NR 46 and a detailed explanation of the potential economic implications (costs and benefits) are explained below.

Minimum Acres and Renewals

This proposed rule allows landowners to perform the withdrawal of ineligible land with a tax and fee and the renewal of the land

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simultaneously to make the land eligible for the one-time renewal of less than 20 acres. Based on our assessment, there are 707 entries that may be impacted by this additional flexibility in the future. If we include the average rate of expiration and renewal, we anticipate 8 landowners will be impacted annually. The statewide average tax rate for productive forest land is $40.79, therefore, a gross estimate of the statewide cost of withdrawal per acre to landowners would be the average tax rate multiplied by 10 plus a $300 withdrawal fee. In terms of tax savings to the landowner, since this provision will be more likely to impact owners with less than 1,000 acres, we assumed an average savings of $31.41 per acre per year (reflective of 90% of the land owing a closed acreage fee), compared to the average tax rate of productive forest land if land were not enrolled in the program. The average entry size for lands enrolled between 11 and 21 acres, less the 1 acre building site that would need to be removed is 15.66 acres, resulting in an average savings of approximately $491.97 per landowner per year for land allowed to be renewed in the program. On average, landowners would break even, and start benefiting from the cost of the 1-acre withdrawal for the building site in year two of their renewal order. The department anticipates the increased costs to local units of government equal to landowner savings, and conversely, increased benefit to local units of government would equal the landowner cost. Additionally, the impact of the flexibility that Section NR 46.18(8) provides landowners to update existing management plans in order to streamline the renewal process is anticipated to be minimal. Through the new renewal provisions, landowners may be more inclined to keep the data within their management plan up to date. Keeping management plans up to date may result in a reduction in the cost of the plan for the landowner

Buildings and Improvements

This section of rule clarifies how buildings and improvements associated with buildings are defined, and there may be subtle differences in the cost or benefit associated with our interpretation. The department estimates that 180 orders will be impacted by this annually due to expiration of land that contains a building that the rule prohibits. The gross average increase in property taxes when land is returned to the regular property tax roll, for large and regular MFL landowners, is $33.12 per acre (reflective of 1/3 of the land owing closed acreage fees). The department anticipates the increased benefit to local units of government would equal the landowner cost.

Accessibility

Act 358 requires that land designated as open to public recreation is accessible on foot. Owners of open lands that are not accessible by public road or other land open to public access may need to secure an agreement if they cannot provide another means of access. The alternative is to close their land to public access and pay the higher tax rate of $10.20 per acre per year for closed lands, compared to the open-MFL tax rate of $2.04, or to withdraw their land from the program with a tax and fee. From a cost efficiency perspective, we anticipate that landowners will not close or withdraw their land based on the new rules but will instead secure an agreement with a neighboring landowner. The department anticipates the cost to landowners to be minimal even though it cannot be determined. No additional costs to local units of government or the department are expected.

Contracts

Currently there are approximately 50,000 MFL orders. Under Section NR 46.27 (2), if there is a material change to program statutes or rules the department will need to send a letter to each designated landowner contact within the program. Within the past 5 years there has been at least one legislative change to the MFL program in every legislative session. For the department to send a letter to the primary owner of each order using the Department of Administration first-class mailing and printing services, the total cost to the department is anticipated to be approximately $25,046 each time a material change occurs.

Department orders

The department may issue orders to correct or alter existing MFL orders to coincide with facts determined to be in place at the time the order was issued. Currently the department does this, so we do not anticipate any additional costs.

Large Ownerships

This rule clarifies the information that large ownerships are required to maintain as part of their management commitment. Large ownerships will also be required to supply more information to the department at the time land is entered into the program so that the department can confirm program eligibility. We anticipate that all of these ownerships already have this information on hand and any additional cost that could be incurred related to this request will be minimal. The department anticipates no additional cost to local units of government or to the department.

Productivity Eligibility Criteria

Changes and clarifications in how the program evaluates land that is capable of producing 20 cubic feet of merchantable timber per year will likely result in an increase of land eligible for the program, and consequently, has the potential to decrease the amount of

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land on the regular property tax roll. Mandatory practices required in the management plan for lands not meeting density requirements at the time of entry may increase landowners' cost, though this would likely be offset by the tax savings associated with MFL enrollment. Land capable of meeting the productivity standards prior to this provision would have had to complete similar, if not the same practices before entry. Therefore, the department anticipates no economic impact to the landowner beyond a few additional years of reduced property taxes, since this provision simply allows the land to be enrolled prior to the practices taking place. Additionally, clarifying language to how productivity is evaluated on MFL parcels was added to ensure consistency. This change could result in acreage not being eligible for the program because it exceeds non-productivity. However, the department anticipates that this will likely result in a minimal amount of acreage not able to be enrolled in the program. Overall, due to changes and clarifications in productivity eligibility criteria, the department anticipates minimal yet indeterminant impact on landowners and local units of government and no additional cost to the department.

Restoration

To determine if landowners would be required to restore land after it has exceeded 20% nonproductive acreage, the department will evaluate whether there is an economic concern that would prohibit restoration. Landowners will be required to restore land if restoration costs are estimated to be less than involuntary withdrawal costs. If landowners are not required to restore the land, the minimum number of acres needed to be withdrawn to get the land back into compliance with productivity requirements will be withdrawn without a tax and fee. Using the average out of pocket cost for emergency funded restoration project installed since 2012 through the Wisconsin Forest Landowner Grant program and the average cost of withdrawal, the department anticipates that even though the average cost of involuntary withdrawal is higher than the average cost of restoration, restoration will only be required in rare situations because the likelihood of success of the restoration is also evaluated. Of the determinations made since the passage of Act 358, no restoration attempts have been required, and the impacted landowners have been able to withdraw the acreage without tax and fee. In situations where restoration would be required, the landowner will have the option to attempt the restoration or voluntarily withdraw the land and go back on the regular property tax roll, ultimately leaving the economic decision in the landowner's hands, but we would assume landowners would attempt restoration since the cost of withdrawal would be higher. Municipalities and counties may be impacted depending on whether the land returns to the regular property tax roll or the landowner restores the land. The department anticipates no additional cost to the department.

Cutting Notices

Allowing cutting notices to be renewed if no significant change has occurred alleviates a burden on tax law landowners, DNR, and any private entity involved with the cutting as industry timber sale contract periods typically last 2-3 years. Over the past 3 years, 5,685 cutting notices have been completed. The average time to completion from approval date was 2.3 years. This change will likely not have any economic impact as it is not a significant change from current operating procedures. This provision creates flexibility and may reduce cost to landowners, partners and DNR since resubmission is not required unless a substantial change has occurred. Therefore, the department anticipates no cost and unknown minimal benefits to landowners and their contractors, and no economic impact on local units of government or the department.

Leasing

Landowners may enter into any lease or agreement if it does not conflict with the program. This provision clarifies statute and long-standing policy, and therefore the department does not anticipate any additional cost. If anything, this provision provides additional unknown economic benefit for landowners. Additionally, the department anticipates no economic impact on local units of government or the department.

Transfer of Ownership

If land conveyed or retained does not meet size requirements, that land will be withdrawn with a tax and fee. This rule also allows landowners the clear flexibility to use the productivity withdrawal after a land sale if their land does not meet productivity requirements. Ultimately this will lead to an indeterminant amount of land being withdrawn without a tax and fee, that would otherwise be withdrawn with a tax and fee because of an ineligible land sale. Since the passage of Act 358, 2% (10.5 landowners/year) of partial transfers have resulted in land withdrawn without a tax and fee for productivity reasons. The average number of acres withdrawn through one of these withdrawals was 9.11 acres. The department anticipates this provision will reduce the economic burden on landowners by reducing the number of acres withdrawn with a tax and fee because of an ineligible land sale, and allowing land to remain in the program that would have otherwise been withdrawn as part of a larger involuntary withdrawal. Using the statewide average tax rate for productive forest land of $40.79, a gross estimate of a withdrawal with tax and fee to landowners would be the average tax rate multiplied by 10 plus a $300 withdrawal fee times the number of acres withdrawn. Savings to landowners may represent tax revenue that the local governments could have received. There is no anticipated impact to the department.

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Administration

Comprehensively, with these provisions there is additional administrative burden in the form of updating maps because of voluntary withdrawals, partial transfers, and changing access routes, as well as other administrative duties required to implement these changes. The department anticipates all additional work can be absorbed in the current workforce.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

This rule revision largely aligns ch. NR 46 with recent statutory changes so that it is compliance with state law. Additional administrative changes were made to help with the implementation of the changes and to codify long standing policy.

14. Long Range Implications of Implementing the Rule

The long range fiscal or economic implications of implementing the rule are the same as the short range implications.

15. Compare With Approaches Being Used by Federal Government

There are no existing or proposed federal regulations to compare with Wisconsin's Managed Forest Law or Forest Crop Law programs.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

There are no existing or proposed neighboring state regulations to compare with Wisconsin's Managed Forest Law or Forest Crop Law programs.

17. Contact Name	18. Contact Phone Number
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ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

☐ Less Stringent Compliance or Reporting Requirements
☐ Less Stringent Schedules or Deadlines for Compliance or Reporting
☐ Consolidation or Simplification of Reporting Requirements
☐ Establishment of performance standards in lieu of Design or Operational Standards
☐ Exemption of Small Businesses from some or all requirements
☐ Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

☐ Yes ☐ No