MICHIGAN ASSOCIATION OF TIMBERMEN
Stewards of Michigan's Forest Resources

Dear Ms. Maidlow,

On behalf of myself and the members of the Michigan Association of Timbermen (MAT) we would first like to say thank you for the opportunity to provide input at the August 17th, 2023, public hearing regarding proposed changes to the Commercial Forest Act policy.

Our association is specifically concerned about the proposed 30-day notice period and would like to request that the notice period be limited to just seven days.

A requirement of 30-day notice for commencement of logging activities on commercial forest lands presents challenges for commercial forest owners in coordinating with logging contractors. The extended timeframe restricts adaptability and responsiveness to market demands and unforeseen circumstances, including weather issues. To address this, the Michigan Association of Timbermen requests that the DNR reduce the notice period to seven days, striking a balance between responsible forestry practices and the practical needs of the industry.

Again, we thank you for the opportunity to address the department in person and in writing. Should you have any questions or comments for MAT, please do not hesitate to contact me.

Sincerely,

Justin Knepper, Executive Director
Michigan Association of Timbermen
(906)293-3236 office
(906)630-0579 cell

AMERICAN FOREST MANAGEMENT

August 30th 2023

American Forest Management
850 W. Sharon Ave. Suite 2
Houghton, MI 49931

Michigan Department of Natural Resources
Karen Maidlow
Forest Resources Division
Commercial Forest Program
PO Box 30452
Lansing, MI 48909-7952

RE: CFA Proposed Administrative Rules Revision Public Comment

Thank you for the opportunity to submit comments on the Proposed Updated Rules of the Commercial Forest Act. American Forest Management (AFM) manages more than 560,000 acres of Commercial Forest lands that are enrolled in the Act. Of the approximately 2.2 million acres of CFA lands, AFM is responsible for the sustainable management of around 25% of the lands enrolled in the entire program. These lands directly support hundreds of family sustaining careers for logging contractors, truckers, road construction, and foresters putting more than $40 million directly into MIchigan communities.

We always support revisions of the Administrative Rules to allow clearer and streamlined management of the Act. As managers of both very large industrial investments and small family-owned generational woodlots, we have a perspective that allows us to see things from many viewpoints. Any time that there are any suggestions of changes to the various parts of the CFA process, we take those suggestions very seriously. There are quite often unintended consequences of trying to improve one portion of the process while at the same time having a detrimental effect on other aspects. The conversations with DNR Staff after the release of the Proposed changes have been very productive and are very much appreciated. It would be our desire that in the future, there be a more interactive process with Stakeholders outside of the Department prior to the publishing of any proposed changes.

In the attempt to revise the Rules and to make things easier for the Department to manage the Program, there becomes new burdens on the Landowners that are currently doing a good job of following the rules. This is true of both large and small landowners. If the overwhelming number of non-compliance issues are with the small private landowners, then maybe in the future it would be prudent to have a different set of rules for the larger landowners?

AMERICAN FOREST MANAGEMENT

In terms of suggestions for edits on the language of the proposed changes:

Page 5, Rule 5 (d)- The current revision states "…submit a copy of the prospective easement across listed land to the department for review at least 30 days before entering into such an agreement." It is my understanding that this is in reference to any easement other than Conservation easements (which are referenced in 5 (g)). This would mean access easements, trail easements, utilities, etc? This is not realistic. This requirement has the potential to delay real estate transactions. We do not believe this language should be changed from what was in the previous version of the Rules.

Page 5, Rule 5 (e) Language around Improvements- If roads are considered an improvement, then "improvements" must be left in the language as permissible.

Page 6- Rule 6 (1) The new requirement of having a minimum number of days ahead of harvest for submission of the Harvest Notification form is neither in the spirit nor the letter of the Act. The Act very clearly says only that notification must be made to the Department PRIOR to harvesting. It is clearly defined to be notification and not an application. If there MUST be a number of days listed in the Rules, then we would request no more than 7 days. We would emphasize, that even at a 7-day requirement period, there will be times when it will be necessary to have notice submitted in a shorter timeframe than 7 days.

Rule 8 (6) I think the intent was for the language to read "…department **will** administratively withdraw the land without application, application fee, or penalty **OR the department will re-enroll the land without any action by the landowner being required**."

Sincerely,

Eric E. Stier
Regional Manager, American Forest Management

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JML FORESTRY

August 30, 2023

Karen Maidlow
Commercial Forest Program Leader
DNR-FRD
P.O. Box 30452
Lansing, MI 48909

RE: Public comments on: MI Department of Natural Resources proposed revision of the **State Administrative Rules for Commercial Forests**

Dear Karen Maidlow,

As a commercial forest landowner representing around seventy thousand acres of listed commercial forest ownership, Longyear requests consideration for additional revisions to the published draft Administrative Rules for Commercial Forests based on the concerns with portions of the proposed rules as described below.

General comments

In regard to effects on the forest industry, which supports tens of thousands of jobs and over $22 billion annually to Michigan's economy, and specifically on Longyear's forest management and commercial harvest operations on Longyear ownership currently listed under the Commercial Forest Act, certain portions of the proposed changes to the Administrative Rules for Commercial Forests would put an unnecessary burden upon Longyear's forest operation as well as upon other large commercial forest operations in the State of Michigan. We have detailed those concerns with our comments and suggested changes in the sections below.

Comments Specific to R 299.2606; Rule 6. (1)

The addition of "*not less than 30 days before*" adds a constraint onto large commercial forest operations that is not reasonably achievable. One key component to running a profitable industrial forest operation on a large commercial forest ownership is the ability to adapt quickly to changing market and environmental conditions. Often these larger forest operations, like Longyear's, are operating on several, and typically dozens of harvest areas at any given time. Even with a multi-year harvest plans pre-established across the commercial forest ownership, market changes and changing and unforeseeable weather and soil conditions inevitably require a forest operation to make changes to harvest areas and to move logging crews to contingency areas, sometimes within days, and certainly within time periods shorter than 30 days.

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Customers often change buying patterns and close the doors to purchasing certain species or products for time periods, often with only a few days' notice. Precipitation levels or winter temperatures can cause soil conditions to change in a day and may require operational moves to protect the resource when, especially while operating harvest sites with potentially sensitive soils. In order to avoid unforeseen downtime, which would be detrimental to the viability and health of the regional forest products supply chain, and still comply with the new 30-day prior requirement, large CF owners, like Longyear, would need to submit intent to harvest notifications for multiple contingent harvest blocks, the majority of which will not be harvested in the submitted timeline, requiring additional notifications of change to be submitted. This unintended complication would certainly put an unneeded burden on both the CF landowners, as well as on the department, and would likely still be inadequate to fully mitigate operational lost flexibility and negative impact to the supply chain and our forest products business.

As the statute (in 324.5111) only requires notification "to the department prior to cutting, harvesting, or removal of forest products," we request that the added 30-day requirement in the draft rules be changed to 5-day or less, or removed altogether, to provide large scale commercial forest operations the flexibility needed to adequately protect the forest resource, their economic viability, and the health of the supply chain.

Comments Specific to R 299.2605b; Rule 5b (1) (2) (3)

We have no issue with and can support the added requirement in Rule 5b (1) (3) to submit a copy of the plan and its revisions as a change to the current requirement of only having a copy available upon request by the department. It is only logical that the department maintain a copy of a landowners' plans if they are to enforce harvest activities following said plans, and we support this change. We do suggest, however, that the 30-day requirement be reduced to 5 days.

We have concerns over the removal of the "*and published*" language from Rule 5b (2). We understand that the intent is not to remove the online link to the requirements, however we feel is better to keep that requirement for transparency from the department in the rule.

Comments Specific to R 299.2605; Rule 5 (d) and (g)

We have concerns over the additional requirement to submit a copy of prospective easements "*to the department for review at least 30 days before entering into such an agreement*". We understand the need for the department to be able to determine if such agreements put a landowner in violation of the requirements of the act, such as significant impacts to forest management or reduction of forest productivity, as the department must enforce this compliance per the act. We fail to see the value or benefit from adding a review time-period which can potentially delay access agreements for adjacent landowners, subsequently affecting the ability and timing of potential real estate transactions, placing undue burden and costs onto large CF landowners.

We furthermore are unclear about how the department intends to respond. Requiring a review period without a coupled mechanism for response creates ambiguity and burdens landowners unduly. The act

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does not provide direction to the department to "review and approve or disapprove" of said agreements, only to ensure that any such agreements do not disqualify the affected land parcel from remaining in the act by violating other provisions. Adding an apparent pre-approval process into the rules with no clarity on how the department intends to respond is an unnecessary burden upon both landowners and the department. We urge the department to remove the "*30 day before*" clause, and maintain the rule as a notification only, allowing the department to ensure landowners keep continued compliance with the act.

Comments Specific to the new Notification Prior to Cutting form

We are inclined to comment on the fact that the department implemented a notification new form, communicating to us that effective immediately they will only accept said new form, which includes the still in public comment and not yet finalized addition of the "30 day before cutting" requirement. Implementation of a form which includes requirements added in a new rule should coincide with the finalization effective date of the amended rule. We feel that this should simply be the precedence for all changes, both those we oppose, and those we desire.

Section 3 on the cutting notification form asks for "silvicultural prescription according to the plan". A large commercial forest with tens of thousands of acres, maintains a plan that may be over a hundred pages, contains extensive silvicutural methods available for forest management by timber type and depending on current stand condition to meet the plan objectives. Large acreage forest plans typically do not specify specific prescriptions at the individual stand level, and one cutting notification may contain multiple silvicutural prescriptions making it impractical to "tie" said prescription(s) back to the specifics in the plan. This section is ambiguous and redundant with section 5, and we feel it should be removed.

Adding a silvicutural method descriptions section (4) is a nice addition for clarity, however the "preset" residual basal areas are highly restrictive and do not represent what we have learned to be acceptable ranges as resource professionals. Based on the act, it is not the place of the department to define acceptable silvicultural methods, which is what the addition of over-restrictive residual basal areas appears to be doing.

Comments Specific to R 299.2605a; Rule 5a (1)

We agree with and appreciate the addition of "foot access" into the public use section of the rules. As a large commercial forest landowner, we battle to curtail vehicle and ATV trespass on our forest lands, which often damages forest roads and culverts, and often leads to added cost and work to maintain BMPs and protect the forest resource. Damage and erosion caused by vehicles and ATV trespass on Longyear land has been a common theme in our FSC environmental audits. Although "foot traffic only" has been the opinion of the attorney general for the past many years, we greatly appreciate the clarification and addition of this language to the rules.

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Closing comments
Longyear would like to thank you in advance for your time and consideration in this matter, and for the opportunity to comment. We urge the department to consider making further changes to address the concerns brought forth in this letter. One additional consideration may be to differentiate certain rules based on the size of the landowner, supporting large scale commercial operations such as Longyear's, while allowing the department to enforce the known issues with smaller enlisted landowners. We suggest 5000+ acres as the threshold for such a large commercial operation. We would be happy to answer any questions, provide any needed clarity, and meet and encourage an open dialog to help find viable and positive solutions.

Regards,

Timothy P. Schneider

Timothy P. Schneider
Resource Planning & Development Mgr.
J. M. Longyear, LLC
210 North Front Street, First Floor
Marquette, MI 49855

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Michigan Department of Natural Resources
Forest Resources Division
Commercial Forest Program
PO Box 30452
Lansing, MI 48909-7952

August 31, 2023

Re: Public Comment to Commercial Forest Program 2023 Proposed Rules Changes

Lyme Great Lakes Timberlands LLC (Lyme) is the owner of approximately 620,000 acres enrolled and managed under Michigan's Commercial Forest Act (CFA). These lands provide economic benefit to loggers, haulers, mills, and the communities they reside in as well as hunting, fishing, and other recreational opportunities. We employ a team of 26 full-time and 2 part-time staff who manage the property and ensure compliance with the Commercial Forest Act and Michigan Best Management Practices for Water Quality. Our management activities support work for 48 logging and hauling contractors, 22 road building contractors, and supply wood to 54 mill customers. Since taking these lands under our management, we've continually worked to be a partner with the Michigan Department of Natural Resources (DNR). We support revising the administrative rules to make the program more easily interpreted for owners of enrolled lands and those considering enrolling their property in CFA.

We welcome the opportunity to provide comment on the proposed rule changes and appreciate all discussion with DNR staff in advance of submitting these comments. It is our desire that proposed rule changes remain aligned with the statutory language of the Commercial Forest Act. Through conversation with DNR staff, we understand that most incidences of non-compliance originate from small forestland owners and that most proposed revisions address concerns directly related to these cases of non-compliance. Lyme supports, with revisions as presented, the Department of Natural Resources Forest Resource Division's Commercial Rules as they appear today. We respectfully offer clarifying language to current draft rules for consideration by DNR and Department of Licensing and Regulatory Affairs:

- Page 1 R 299.2601 Rule 1 (4) (e), Include detail clarifying the circumstances under which the department determine a survey is necessary to determine eligibility for CFA enrollment.
    - A certified survey in accordance with section 1 of 1970 PA 132, MCL 54.211, if the department determines it is necessary to determine eligibility when the parcel applied for listing includes meets and bounds descriptions.

- Page 3 R 299.2604 Rule 4 (10), To provide of ease of locating exact language within the Act pertaining to exceptions for wind energy development, include in the rule language referencing applicable sections.
    - The owner of listed land shall advise the department of any commercial mineral extraction operations or wind energy production and initiate withdrawal of the listed land affected before mineral extraction or wind energy production, as per section 51113 (5) (a-c) of the act MCL 324.51113.

- Page 5 R 299.2605 Rule 5 (d), Additional language clarifying the specific easements necessary for review and a response period.
    - An easement may be granted across listed land if the effect on productivity of the listed land is minimal. The owner shall submit a copy of the prospective easement across listed land to the department for review at least 30 days before entering into such an agreement. The department shall make a determination that the easement complies with the statute and notify the owner within 30 days of submission. The prospective easement shall be determined as being compliant with the statute should the department's response not be received by the owner of listed land within 30 days of submission. Easements with minimal effect of productivity and those for road and utility rights-of-way shall not be submitted or subject to review and shall continue to be classified as commercial forest as per section 324.51113 (5) (c) of the act MCL 324.51113.

- Page 5 R 299.2605 Rule 5 (e), Add clarification of how the term improvement will be interpreted and allow for temporary improvement used exclusively for commercial forest management operations.
    - Buildings or improvements must not be allowed on listed land, except those used exclusively for conducting the management and/or operation of commercial forests or as specified in R 299.2604 (7).

- Page 5 R 299.2605 Rule 5 (f), To provide of ease of locating exact language with the Act, include in the rule language referencing applicable sections stating where a property without access may remain listed under act.
    - An owner shall submit to the department, upon request, a description of public access to specific parcel descriptions of listed land for the purpose of hunting and fishin**g.** The description must be in a format that meets the recording requirements of the county register of deeds. Properties without access may remain listed under the act as per section 51113 (1) (a-c) of the act MCL 324.51113.

- Page 6 R 299.2605b Rule 5b (1), Add clarifying language stating a response period for the department.
    - The department shall make a determination that the copy of the new of updated forest management plan is compliant with the minimum requirements and notify the owner within 30 days of submission. The prospective new or updated forest

management plan shall be determined as being compliant with the minimum requirements established by the department should the department's response not be received by the owner of listed land within 30 days of submission.

- Page 6 R 299.2605b Rule 5b (3), Add clarifying language stating a response period for the department.
    - The department shall make a determination that the amended or revised forest management plan is compliant with the minimum requirements established by the department and notify the owner within 30 days of submission. The prospective amended or revised forest management plan shall be determined as being compliant with the minimum requirements established by the department should the department's response not be received by the owner of listed land within 30 days of submission.

- Page 6 R 299.2606 Rule 6 (1), This change is not easily accommodated by the owner with large areas listed under the act. We recommend shortening the period of notification prior to removing forest products and the addition of language allowing owners of large areas listed under the act a shortened notification period in cases of unforeseen weather or economic conditions. This change will provide for better forest management and compliance with BMPs, as well as reduce the disruption to loggers, truckers, mills, and other large contributors to the supply chain.
    - The owner of listed land shall submit to the department a notification of intent to harvest on a form prescribed by the department not less than 14 days before cutting, harvesting, or removing forest products from listed land. For owners with greater than 5,000 acres or more enrolled, where unforeseen weather or economic conditions warrant, notice of intent to harvest may be submitted no less than 3 days before cutting, harvesting, or removing forest products from listed lands.

- Page 6 R 299.2606 Rule 6 (4), Modify language to remain consistent with the title of the notification form.
    - The department shall approve a harvest notification for a period not to exceed 2 years. If harvesting operations, except transport of products, is not completed within the approved time period, an additional notification must be submitted to the department for the same description.

- Page 6 R 299.2606 Rule 6 (5), Modify language to remain consistent with the title of the notification form.
    - The owner shall notify the department of any changes to the harvest described on the harvest notification form including descriptions, harvest practices, or other terms on the notification form.

Respectfully submitted,

William D. "Bill" O'Brion, General Manager
Lyme Great Lakes Timberlands LLC

MFPC

Michigan Forest Products Council Comments on the Department of Natural Resources' Proposed Changes to the Commercial Forest Act (CFA) Rules

August 17, 2023

Michigan Forests Products Council's (MFPC) mission is to promote, protect, and sustain a globally competitive forest products industry in Michigan. MFPC's members are the largest commercial forestland stakeholders with over 2 million acres enrolled in the Commercial Forest Act Program. MFPC represents private landowners, foresters, businesses, and communities that actively manage thousands of acres of forestland that provide many benefits: recreation opportunities, hunting, fishing, wildlife habitat, and critical fiber supply for numerous commercial uses and jobs.

The economic and community benefits of the Commercial Forest Act (CFA) are co-dependent with Michigan's entire 20-million-acre forest eco-system that supports 90,000 jobs and over $22 billion annually to Michigan's economy. Any changes in administrative rules should not undermine the original intent of Part 511, and the profound benefits to the State of Michigan and its citizens since the program's inception in 1925.

The CFA program was and continues to be essential to reforesting Michigan. The program is designed to encourage forest legacy – the passing down of well-managed forest resources to future generations. CF landowners do not pay ad valorem general property taxes. Instead, CF landowners pay a specific tax rate. The Commercial Forest tax rate makes forest legacy affordable and keeps the land open to the public for hunting and fishing. Equally important, the program supports a robust fiber supply chain that so many Michiganders and communities rely upon.

Today, we welcome the opportunity to comment on the proposed revisions of the Commercial Forest Program Administrative Rules. For context, the last revision of the Commercial Forest Act (CFA) enacted by the Michigan Legislature was in 2016, by way of a Public Act (PA 262 of 2016). Our members seek to maintain consistency with CFA statutory language.

We share the department's vision that the proposed rule changes will make the program better for Michigan's communities and residents.

The Michigan Forest Products Council supports, with clarifying language changes, the Department of Natural Resources Forest Resource Division's Commercial Rules as they appear before you today.

We agree with the department that most technical non-compliance comes from small forest landowners that have 160 contiguous acres or less enrolled in the program. Under the statute, 40 contiguous acres is the minimum acreage eligible to be enrolled in the program. The existence of a public or private road, a railroad, or a utility right-of-way that separates any part of the land does not make the land noncontiguous (324.51103

(1)). Most of the proposed changes address concerns related to issues with over 300 small commercial forester landowners that may be technically in non-compliance. Most concerns that necessitate these rule modifications are designed to remedy inconsistencies such as non-existent or expired forest management plans, parcels with permanent structures, vehicles, forest management plans with no harvesting provisions, and a lack of public access.

MFPC members respectfully offer specific clarifying language changes to the current draft rules that we urge the Department of Natural Resources and the Department of Licensing and Regulatory Affairs to consider, as summarized in bullets below:

- Page 4: R 299.2604 Land; eligibility for listing, (13) – **Change the 30-day notice to 7-day** notice prior to removal of sand and gravel to help large commercial landowners respond to weather events and maintain sustainable best management practices.

- Page 5 R 299.2605 Criteria to determine compliance with Act (d) and (g) – Add clarifying language that upon request the owner of a conservation easement shall submit a copy of the prospective easement to the department before entering into the agreement to ensure compliance with the statute. **The department has 30 days to review the prospective conservation easement and shall notify the owner of the determination that the conservation easement complies with the statute.** If the department does not approve the easement, the department shall share an explanation of the defect.

- R299.2605 (e) – We strongly recommend retaining the existing statutory language as follows. **Building or improvements must not be allowed on listed land, except those used exclusively for the conduct of commercial forest management operations or as specified in R 299.2604 (7).**

- R299.2605 5b Forest management plan – Rule 5b (3). **Change for the owner of parcels 5,000 acres or more, include language as follows: the owner shall submit a copy of the amended or revised forest management plan to the**

department if it meets the minimum requirements established by the department, 7 days before implementation of revisions to the forest management plan. We also recommend striking ~~any amendment~~ as it seems redundant.

- Page 6 R 299.2906 Prior reporting; harvest of forest products - Rule 6 – **Add language for large commercial forest landowners with 5,000 or more enrolled acres or more much needed flexibility by requiring 7-day notice before harvesting.** This will result in much better forest management, best management plan (BMP) compliance and much less disruptions to loggers, truckers, and producers in the supply chain.

- Page 7 R 299.2608 Withdrawal of listed land. Rule 8 (6) **Add language to ensure re-enrollment with no penalty if the township removed the land in error.** Specifically, the department shall administratively re-enroll the listed land in the commercial act program without application, fee, or penalty.

On behalf of the MFPC's members, we thank you for the opportunity to provide comments on the Commercial Forest Act Program proposed rule changes. Today, we ask for some modest changes to the proposed rules and appreciate the department's interest in considering changes recommended through all public comments.