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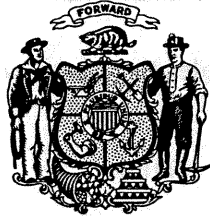
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FORM 2

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-074

AN ORDER to amend NR 46.18 (6) and 46.22; to repeal and recreate NR 46.30 (2) (a) to (c); and to create NR 46.09, 46.16 (1) (b) 3. and 46.23 (3), relating to the administration of the forest crop law and the managed forest law.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

04-11-00 RECEIVED BY LEGISLATIVE COUNCIL.
04-28-00 REPORT SENT TO AGENCY.

RNS:GAA:rv;jal

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached

YES

NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached

YES

NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached

YES

NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached

YES

NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached

YES

NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached

YES

NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached

YES

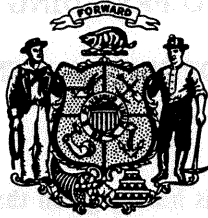
NO

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CLEARINGHOUSE RULE 00-074

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

- a. SECTIONS 1, 3, 4 and 5 of the rule include the address to which withdrawals from forest cropland and managed forest land programs must be mailed. The address should be included in a note, not in the text of the rule. [See s. 1.09 (2), Manual.]
- b. In SECTION 2, "for which" should be inserted following "for the year" in the second line.
- c. Throughout the rule, references to "1st" in a date should be deleted. Rather, the rule should refer to "January 1," "October 1" or "December 1."

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. In SECTIONS 1, 3, 4 and 5, reference is made to "the second January 1st." The reference should be replaced by "January 1 of the second year beginning after the year in which the form is received."
- b. In SECTION 2, in the third sentence, a period should follow "deadline" and a new sentence should be created to read: "The entry shall be effective the following January 1."

JUL 19 2000

State of Wisconsin
Department of Natural Resources

**NOTICE TO PRESIDING OFFICERS
OF PROPOSED RULEMAKING**

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Natural Resources Board Order No. FR-19-00

Legislative Council Rules Clearinghouse Number 00-074

Subject of Rules Administration of the forest crop
law and the managed forest law

Date of Transmittal to Presiding Officers July 18, 2000

Send a copy of any correspondence or notices pertaining to this rule to:

**Carol Turner, Rules Coordinator
DNR Bureau of Legal Services
LC/5, 101 South Webster**

266-1959

Report to
Legislative Council Rules Clearinghouse
NR 46, Wis. Adm. Code
Natural Resources Board Order No. FR-19-00

Wisconsin Statutory Authority

ss. 77.06(2), 77.91(1) and 227.11(2)(a), Stats., and ss. 77.06(2) and 77.91(1), Stats.

Federal Authority

N/A

Court Decisions Directly Relevant

None

Analysis of the Rule - Rule Effect - Reason for the Rule

The rule revisions are proposed to make the annual stumpage rate adjustments as required in ss. 77.06(2) and 77.91(1), Stats., to clarify how ownership changes during the application process will be dealt with on lands petitioned for entry, and to establish deadlines for landowners to file changes in the tax law entries through transfers and withdrawals.

Application ownership changes – Annually we have about 100 or more landowners who petition the department to enter land into the Managed Forest Law and then proceed to sell or transfer their land while the entry is being processed. This rule change would require a new petition to be filed by the new landowner for the next application period rather than being processed under the original submission.

Deadlines for submission of transfer and withdrawal requests – The statutes require that certain transactions in the tax laws be completed by a given date when the tax status of the land involved is being changed. Often landowners are filing transfers and withdrawals for the Managed Forest Law and Forest Crop Law on the very date orders must be executed. Requests to change the “open/closed” status also change the tax status and are included in the deadline establishment. Filing deadlines are being proposed to address the last minute filings. Fifteen day leads are being requested for MFL transfers and withdrawals and a 50 day lead for FCL withdrawals. These are minimum leads needed to process the expanding tax law activities.

Annual stumpage rate adjustments – For purposes of the Forest Crop Law and the Managed Forest Law, this rule repeals and recreates s. NR 46.30(2)(a) to (c) to revise annual stumpage values used to calculate severance and yield taxes due on timber cut during the period from November 1 2000 through October 31, 2001. Thirteen separate zones reflect varying stumpage values for different species and products across the state. The average price change for sawtimber is a 1.7% increase over current rates. The pulpwood proposed prices are, on the average, 3.86% higher compared to current prices.

Agency Procedures for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review.

Description of any Forms (attach copies if available)

None

Name and Telephone Number of Agency Liaisons

Ken Hujanen, Bureau of Forestry - 266-3545

Edwina Kavanaugh, Bureau of Legal Services - 264-8991

Carol Turner, Bureau of Legal Services - 266-1959

Submitted on April 10, 2000

REPORT TO LEGISLATURE

NR 46, Wis. Adm. Code
Administration of the forest crop law and the managed forest law

Board Order No. FR-19-00
Clearinghouse Rule No. 00-074

Statement of Need

For purposes of the Forest Crop Law and the Managed Forest Law, this rule repeals and recreates s. NR 46.30(2)(a) to (c) to revise the annual stumpage values used to calculate severance and yield taxes due on timber cut during the period from November 1, 2000 through October 31, 2001. The separate zones reflect varying stumpage values for different species and products across the state. The average price change for sawtimber is a 10.74% increase over current rates. The pulpwood prices are, on the average, decreased 1.27%.

This rule also clarifies a new department policy of requiring a new petition for designation when an ownership change has taken place on lands being processed for entry. Lands still under the original ownership will continue to be processed for entry. If the application deadline has passed, new applications will be processed for the following year.

Statutes require withdrawal, transfer and open/closed changes by specific dates when the tax rates are going to be affected. This rule requires that requests to transfer, withdraw or change the open/closed status on Managed Forest Law land for the succeeding year must be filed with the department by December 1. Requests received after the deadline will not be processed for the next succeeding year and will be considered in the next application cycle. Under the Forest Crop Law, an October 1st deadline has been established due to an earlier statutory date and the process that must be followed.

Modifications as a Result of Public Hearing

Adjustments to the stumpage rates have been made as a result of the input received at the public hearing. Sawtimber increased in value and pulpwood decreased in value.

Appearances at the Public Hearing and Their Position

In support – none

In opposition:

Juris Repsa, Georgia-Pacific Corp., 100 Wisconsin River Drive, Port Edwards, WI 54469-1492

As interest may appear:

Marvin C. Meier, 4901 Blackberry Drive, Wausau, WI 54401

Pete Hilgers, Kretz Lumber Company, 1770 Lone Pine Lane, Mosinee, WI 54455

Rob Kudick, Wausau-Mosinee Paper Corporation, 100 Main Street, Mosinee, WI 54455

Darrell Pierson, Packaging Corporation of America, N9090 County Road E, Tomahawk, WI 54487

Al Koeppel, Kretz Lumber Company, P.O. Box 160, Antigo, WI 54409

Michael Schuessler, P.O. Box 670, Keshena, WI 54135

Response to Legislative Council Rules Clearinghouse Report

The recommendations were accepted.

Final Regulatory Flexibility Analysis

This rule does affect small business. Small private forest landowners and forest industries enrolled under the Forest Crop Law and Managed Forest Law are required to pay 10% and 5% respectively of the stumpage value adopted in the zone for the species and wood product volume cut from their land. Existing compliance and reporting procedures are defined by statute.

ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
AMENDING, REPEALING AND
RECREATING, AND CREATING RULES

The Wisconsin Natural Resources Board proposes)
an order to amend NR 46.18(6) and 46.22; to repeal and)
recreate NR 46.30(2)(a) to (c); and to create NR 46.09,) FR-19-00
46.16(1)(b)3, and 46.23(3) relating to the administration)
of the Forest Crop Law and the Managed Forest Law.)

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 77.06(2), 77.91(1) and 227.11(2)(a), Stats.
Statutes interpreted: ss. 77.06(2), and 77.91(1), Stats.

Application Ownership Changes: During the processing annually of Managed Forest Law Petitions for Designation up to 100 landowners sell their land to others and would like the petition to be honored for the new landowner. This has created hardships in the processing and resulted in new landowners entering into the tax law without a complete understanding of the agreement they are entering into. New petitions will be required to be filed by the next deadline if the new landowner is interested in the tax laws. What land the original landowner still owns will be allowed to be entered based on the original petition.

Deadlines for Submission of Transfer and Withdrawal Requests: Late submissions of tax law transfers, open/closed changes, and withdrawals make it very difficult to process them in a timely manner. Normal transfers have little effect on property taxes other than keeping the records straight between the Department and local town and county officials. Transfers that change the "open and closed" designations on MFL lands and direct requests to change the designation do change the tax status of lands must be processed by December 15 each year. MFL withdrawals, by statute, must also have an order issued by December 15 to be effective January 1. In each case, December 1 has been established as the due date for the required forms to be filed to allow adequate time for processing the forms.

Forest Crop Law withdrawals require a minimum of six weeks lead-time to process. The orders must be completed by November 20 each year. The Department of Revenue and the local towns must supply information and an invoice issued along with the payment being made before the order may be issued. October 1 has been established as the latest date for a withdrawal request to be submitted.

Annual Stumpage Rate Adjustments: For purposes of the Forest Crop Law and The Managed Forest Law, this rule repeals and recreates s. NR 46.30(2)(a) to (c) to revise annual stumpage values used to calculate severance and yield taxes due on timber cut during the period from November 1, 2000 through October 31, 2001. Thirteen separate zones reflect varying stumpage values for different species and products across the state. The average price change for sawtimber is a 10.74% increase over current rates. The pulpwood proposed prices are, on the average, 1.27% lower compared to current prices.

SECTION 1. NR 46.09 is created to read:

NR 46.09 Forest croplands withdrawals. A completed declaration of withdrawal on a department form shall be filed with the department. Requests received by the department no later than October 1 on department forms will be eligible to be effective the following January 1. Forms received by the department after October 1 and before the end of the year shall be effective January 1 of the second year beginning after the year in which the form is received. Delays in processing created by local governments or the department of revenue, or failure to pay the withdrawal penalty on a timely basis may mean a delay in the effective date of the withdrawal.

➤ **Note:** Forms for withdrawal must be filed by the deadline at: Bureau of Forestry, Forest Tax Section, PO Box 7963, Madison, WI 53707. Forms may be obtained at no charge by writing the same address.

SECTION 2. NR 46.16(1)(b)3 is created to read:

NR 46.16(1)(b)3. Lands subject to an ownership change after the petition deadline, but before the order of designation has been issued, may not be designated as the managed forest law for the year for which the original petition was submitted. Ownership changes taking place after the issuance of an order of designation will be processed as a normal transfer under s. 77.88(2), Stats., after January 1. The new owner shall submit a new and complete petition by the next deadline. The entry shall be effective the following January 1. The department may designate land that remains under the original ownership effective the following January 1 from the date of the original petition providing the remaining land qualifies for entry.

SECTION 3. NR 46.18(6) is amended to read:

NR 46.18(6) MODIFICATION OF DESIGNATION OF CLOSED OR OPEN AREAS. A landowner, other than and consistent with the provisions in s. 77.83, Stats., may modify the designation of a closed or open area once during the period of the order. Requests for changes in the open/closed designation shall be in writing or on department forms filed with the department. Requests received by the department no later than December 1 in a given year will be eligible to be effective the following January 1. Requests received by the department after December 1 and before the end of the year, shall be effective January 1 of the second year beginning after the year in which the form is received.

➤ **Note:** Requests to change the open/closed status must be filed by the deadline at: Bureau of Forestry, Forest Tax Section, PO Box 7963, Madison, WI 53707.

SECTION 4. NR 46.22 is amended to read:

NR 46.22 Withdrawal. (1) The department may order withdrawal of land under s. 77.88 (1), Stats., if the land comprises ~~no less than~~ any of the following:

(1) (a) An entire quarter quarter section, government lot or fractional lot of managed forest under the same order; ~~or~~ ,

(2) (b) An entire parcel of managed forest land; ,

(3) (c) All managed forest land under the same order owned by the owner in a quarter quarter section, government lot or fractional lot if the withdrawal is required as a result of a mistake by the owner.

(2) Voluntary withdrawals submitted for processing under s. 77.88(3), Stats., shall be filed with the department. Requests received by the department no later than December 1 on department forms will be eligible to be effective by the following January 1. Requests for withdrawal received by the department after December 1 and before the end of the year, shall be effective January 1 of the second year beginning after the year in which the form is received.

➤ **Note:** Forms for withdrawal must be filed by the deadline at: Bureau of Forestry, Forest Tax Section, PO Box 7963, Madison, WI 53707. Forms may be obtained at no charge by writing the same address.

SECTION 5. NR 46.23(3) is created to read:

NR 46.23(3) Transfers requesting a change in the "open/closed" designation shall be in writing on department forms filed with and received by the department by December 1 in order for the change in the "open/closed" status to be eligible to be effective the following January 1. Requests for transfers, which change the "open/closed" designation, received by the department after December 1 but before the end of the year shall be effective January 1 of the second year beginning after the year in which the form is received.

> **Note:** Forms for transferring managed forest land must be filed by the deadline at: Bureau of Forestry, Forest Tax Section, PO Box 7963, Madison, WI 53707. Forms may be obtained at no charge by writing the same address.

SECTION 6. NR 46.30(2)(a) to (c) are repealed and recreated to read:

(see attached pages)

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on June 28, 2000.

The rules shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
George E. Meyer, Secretary

(SEAL)