CHAPTER 26

PROTECTION OF FOREST LANDS AND FOREST PRODUCTIVITY

26.01 Definitions. In this chapter:
(1) Unless the context requires otherwise, “department” means the department of natural resources.
(2) "Forest fire" means uncontrolled, wild, or running fires occurring on forest, marsh, field, cutover, or other lands or involving farm, city, or village property and improvements incidental to the uncontrolled, wild, or running fires occurring on forest, marsh, field, cutover, or other lands.

History: 2001 a. 103 s. 40, 42.

26.02 Council on forestry. (1) DUTIES. The council on forestry shall advise the governor, the legislature, the department of natural resources, and other state agencies, as determined to be appropriate by the council, on all of the following topics as they affect forests located in this state:
(a) The protection of forests from fire, insects, and disease.
(b) The practice of sustainable forestry, as defined in s. 28.04 (1) (e).
(c) Reforestation and forestry genetics.
(d) Management and protection of urban forests.
(e) Increasing the public’s knowledge and awareness of forestry issues.
(f) Forestry research.
(g) Increasing the economic development of the forestry industry and employment in the forestry industry.
(h) Marketing and use of forest products.
(i) Legislation that impacts on the management of forest lands in this state.
(j) Staffing and funding needs for forestry programs conducted by the state.

(2) REPORT. (a) The council on forestry shall prepare a biennial report on the status of the state’s forest resources and forestry industry. The report shall include a summary of each of the following:
1. The magnitude, nature, and extent of the forest resources in this state.
2. The current use in this state for forest products and the benefits that these forest products provide to the state.
3. The projected future demand for forest products and the projected benefits that these forest products will provide to the state in the future.

26.03 Harvest of raw forest products. (1b) Definitions. In this section:
(a) “Harvest” means to cut, remove or transport.
(b) “Harvesting” means cutting, removing or transporting.
(c) “Raw forest products” has the meaning given in s. 26.05 (1).

(1g) PROHIBITION; DELINQUENT TAXES. No person may harvest any raw forest products, or direct the harvest of any raw forest products, from any land for which taxes are delinquent.

(1m) HARVESTING UPON NOTIFICATION. (a) 1. Unless otherwise authorized to do so by the county, no person may harvest any raw forest products, or direct the harvesting of any raw forest products, from any land until 14 days after the clerk of the county in which the land is located is notified of the person’s proposal to harvest. The person shall notify the county clerk each year and...
may do so in any manner acceptable to the county. Each time the person notifies the county, the person shall describe the land upon which the harvesting will occur by quarter-quarter section, government lot or fractional lot, unless the county requires a different method for describing the land. Notification under this subdivision expires on the December 31 immediately following the notification, and no person may harvest, or direct the harvesting of, any additional raw forest products from the land until further notification that complies with this subdivision is provided to the county.

2. Upon receipt of notifications under subd. 1., the county clerk shall provide notice to the town chairperson of each town in which the land from which raw forest products will be harvested is located and to the county treasurer. The county treasurer shall determine whether the county holds a tax certificate or tax deeds to any of the land involved. If the county holds a tax certificate, the county treasurer shall take action to collect the unpaid taxes represented by county-owned tax certificates or to prevent the harvesting of raw forest products from the land. If the county holds a tax deed, the county treasurer shall take action to prevent the harvesting of raw forest products from the land.

(b) Paragraph (a) 1. does not apply to a person harvesting raw forest products on public lands, as defined in s. 70.13 (7), to a person harvesting raw forest products for fuel wood for his or her home consumption, to a person harvesting for the purpose of clearing the land for agricultural use or to a person harvesting from the person's own land, any of the following:

1. Boughs for his or her own use.
2. Up to 5 Christmas trees for his or her own use.

(1r) HARVESTING UPON RECORDING. (a) No purchaser of Indian reservation land or land to be placed upon the tax roll for the first time may harvest any raw forest products, or direct the harvesting of any raw forest products, from the land without first recording the instrument by which title to the land was acquired in the office of the register of deeds for the county in which the land is located.

(b) Paragraph (a) 1. does not apply to a person harvesting raw forest products for fuel wood for his or her home consumption.

(1V) EXCEPTIONS. This section does not apply to the harvesting of raw forest products for the purpose of establishing or maintaining a railroad track or structure, a pipeline, or a utility right-of-way by any of the following:

(a) An alternative telecommunications utility, as defined in s. 196.01 (1d).
(b) An electric cooperative, as defined in s. 101.80 (1g).
(c) A public utility, as defined in s. 196.01 (5).
(d) A railroad, as defined in s. 195.02.
(e) A telecommunications carrier, as defined in s. 196.01 (8m).
(f) A telecommunications utility, as defined in s. 196.01 (10).
(g) A corporation licensed to do business in this state that is engaged in the business of transporting natural gas, petroleum products, water, or sewage through pipelines.

(2) PENALTIES. (a) Whoever violates sub. (1g), or a rule promulgated under sub. (1g), shall forfeit not less than $500 nor more than $10,000.
(b) Whoever violates sub. (1m) or (1r), or a rule promulgated under sub. (1m) or (1r), shall forfeit not more than $100.

(b) Instead of the forfeiture provided under par. (a), a person who intentionally violates this section, or a rule promulgated under this section, may be punished under s. 943.20 for theft.

(c) In addition to any other penalty, a person who violates this section, or a rule promulgated under this section, is liable for the reasonable costs incurred to establish the volume and value of the raw forest products cut, removed or transported.

History: 1981 c. 67; 1999 a. 190.

26.06 Enforcement, seizure and sale of materials. (1) Foresters, forest supervisors, wardens and runners of the department and the cruisers and foresters of the board of commissioners of public lands have the enforcement powers specified in s. 26.97 with respect to, and may seize, without process, any forest products unlawfully severed from public lands of the state, federal lands leased to the state, county forest lands entered under s. 28.11, forest croplands entered under subch. I of ch. 77 or managed forest land designated under subch. VI of ch. 77. Seized products cut from lands under the control of the board of commissioners of public lands shall be held for the commissioners and those cut from forest croplands, managed forest land or county forest shall be held for the owner, and subject to the payment of severance share thereon to the state. Products cut from state forest lands or federal lands leased to the department shall be appraised and sold. Products appraised at more than $500 shall be sold on sealed bids not less than 10 days after a class 1 notice has been published, under ch. 985, in the county where the material is located. Any sheriff may seize and hold for the owner thereof any forest products unlawfully severed or removed.

(2) Any person who, without the consent of a person legally able to give consent, removes any seized products or removes or defaces a seizure notice of the department or of any sheriff shall forfeit not less than $500 nor more than $10,000.

(3) Any person who transports, receives or conceals any forest products, knowing the same to have been unlawfully severed from the lands of another, shall be liable to the owner for double the value thereof and in addition shall be punished as provided in s. 943.20 (1).


26.07 Money, how disposed of. All money received from the sale of logs, timber, shingles, timber, minerals or other articles seized under this chapter, or recovered in legal proceedings for damages done the public lands, shall be paid into the treasury to the credit of the respective funds to which the lands belong on which such trespasses were committed, and all other money collected as expenses, fees, penalties and damages for trespass on such lands shall be paid into the general fund.

26.08 Leases and licenses. (1) The department may, from time to time, lease parts or parcels of state park lands or state forest lands. These leases shall contain proper covenants to guard against trespass and waste. The rents arising from these leases shall be paid into the state treasury to the credit of the respective funds to which the lands belong on which such trespasses were committed, and all other money collected as expenses, fees, penalties and damages for trespass on such lands shall be paid into the general fund.

26.09 Timber theft. (1) DEFINITION. In this section, "raw forest products" means forest products not altered by a manufacturing process off the land from which they are taken and includes seedlings, saplings, shrubs, whole-tree chips, boughs, logs, piling, posts, poles, cordwood products, pulpwood, fuel wood and Christmas trees.

(2) CONSENT OF OWNER REQUIRED. No person may cut, remove or transport raw forest products or direct the cutting, removal or transportation of raw forest products without the consent of the owner.
(b) The department may lease Rib Mountain state park lands and Willow River state park lands for terms not exceeding 30 years.

(bn) The department may lease state park land located within the boundaries of the Wisconsin Dells natural area for terms not exceeding 30 years.

(c) The department may lease Kettle Moraine state forest land for the YMCA Camp Matawa for a term not exceeding 30 years.

(d) The department may lease Northern Highland American Legion State Forest land on Statehouse Lake in the town of Manitowish Waters for the North Lakeland Discovery Center for a term not exceeding 30 years.

(e) The department may lease state forest land located in the town of Boulder Junction to the Boulder Junction Shooting Range for terms not exceeding 30 years.

(3) The department shall furnish to the board of commissioners of public lands such maps, plats, surveys, valuations, information and other services as the board may request respecting any of the public lands, for use by it in granting leases or licenses or in making sales under s. 24.39.

History: 1979 c. 34; 1987 a. 27; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2013 a. 82.

26.09 Civil liability for unauthorized cutting, removal or transportation of raw forest products. (1b) Definitions. In this section:

(a) “Compass” means a sighting compass with a liquid-filled capsule that has been adjusted for the proper declination.

(b) “Fair market value” means the amount for which the raw forest products or land can be sold in an open market by a person willing and able but not compelled to sell and a purchaser willing and able but not obliged to buy.

(c) “Harvest” means to cut, remove or transport.

(d) “Harvesting” means cutting, removing or transporting.

(e) “Harvesting boundary” means the boundary of an area in which the harvesting of raw forest products is planned.

(f) “Owner” includes the board of commissioners of public lands if the board holds a land contract certificate under ch. 24 to the land from which the raw forest products were harvested.

(g) “Raw forest products” has the meaning given in s. 26.05 (1).

(h) “Recorded survey” means a land survey that is recorded with the register of deeds in each of the counties in which the harvesting took place.

(i) “Slash” has the meaning given in s. 26.12 (6) (a).

(j) “Stumpage value” means the applicable stumpage value established under s. 77.91 (1) or the fair market value of raw forest products less the cost of their harvesting, whichever is greater.

(k) “Subdivision” means a township, section, quarter-quarter section, government lot or fractional lot.

(2) Persons entitled to sue. Exception. (a) In addition to any other enforcement action that may be taken and subject to par. (b), an owner of raw forest products that were harvested without the consent of the owner may bring a civil action against the person who harvested the raw forest products to recover the damages caused by the harvesting. In addition to any other enforcement action that may be subject to par. (b), a county in which a violation of s. 26.03 (1g) or (1r) or a rule promulgated under s. 26.03 (1g) or (1r) occurred may bring a civil action to recover damages for the violation.

(b) An owner may not recover damages under this subsection if the person harvesting the raw forest products or the person giving consent for the harvesting reasonably relied on a written agreement among adjacent owners, or their agents, that the owner giving consent to harvest has the authority to do so even if after the harvesting it is determined that the owner giving the consent did not have such authority, but only if the harvesting is from land owned by an owner who is a party to the agreement.

26.09 DAMAGES. (a) A person against whom an action is brought as provided in sub. (2) is liable for the applicable damages under par. (b) or (c), subject to sub. (6), and other reasonable and necessary costs under par. (d).

(b) 1. A court shall award damages that equal the stumpage value of the raw forest products harvested if the person harvesting the raw forest products or the person giving consent for the harvesting reasonably relied upon a recorded survey that was done by a person who is licensed under ch. 443 as a professional land surveyor even if the recorded survey is determined, after the harvesting, to be in error.

2. A court shall award damages that are equal to 2 times the stumpage value of the raw forest products harvested if a recorded survey was not relied upon as specified in sub. 1. but the person harvesting the raw forest products took reasonable precautions in identifying harvesting boundaries.

3. A court shall award damages that are equal to 4 times the stumpage value or 2 times the fair market value of the raw forest products harvested, whichever is greater, if a recorded survey was not relied upon as specified in subd. 1. and the person harvesting the raw forest products did not take reasonable precautions in identifying the harvesting boundaries.

(c) In addition to the award under par. (b), a court shall award the owner of raw forest products that were harvested without the consent of the owner, any economic damages resulting from that harvest.

(d) A court shall award other reasonable and necessary costs, which may include costs for any of the following:

1. Repair of damage to, or cleanup on, the land from which the raw forest products were harvested.

2. Removal of slash from agricultural land, waterways, highways, private roads, trails or other sites where the slash would interfere with reforesting or replanting.

3. Determining the fair market value, the stumpage value or the volume of the raw forest products that were harvested.

4. Determining the location of property boundaries necessary for determining whether a violation occurred.

5. Preparing forest management or reforestation plans.

6. Reforesting.

7. Replanting by direct seeding or by use of seedlings.

(4) Legal costs. Notwithstanding the limitations under s. 814.04, and in addition to the remedies available under s. 807.01, the court shall award the successful party in a civil action brought under sub. (2) court costs and reasonable attorney fees if the unsuccessful party, before the commencement of the action, unreasonably refused to pay a demand for damages or to accept an offer of payment for damages.

(5) Reasonable precautions. (a) For purposes of sub. (3), (b), a person takes reasonable precautions if the person does all of the following:

1. Identifies the harvesting boundaries as required under par. (3).

2. Reviews land ownership records and any other resources or documentation regarding the land. These records, resources and documentation include instruments of conveyance, certified survey maps, survey field notes and information on the land’s boundaries provided by the owners, or their agents, of any land that abuts a proposed harvesting boundary.

(b) For purposes of par. (a), the harvesting boundaries may be identified by any of the following methods:

1. By use of a compass and measuring device or by use of a global position system if the identification is conducted by a person trained in the method used and if the identification is based on an established survey corner as specified in par. (c). If a global positioning system is used, it shall be accurate to plus or minus 2 meters.

2. By use of a method established by rule by the department.
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(c) A surveyor is an established surveyor for purposes of par. (b) if it is part of a U.S. government survey plat and it is used to determine one or more boundaries of a subdivision. The surveyor may be evidenced by a monument or other marking that was placed at the time that the survey was conducted or, if the monument or marker is no longer visible or in existence, the position of the surveyor may be reconstructed by doing one of the following:

1. Using a reference to a description contained in applicable surveying field notes or other supplemental surveying record.
2. Locating the surveyor by use of physical evidence or witness testimony.

(6) DAMAGES OTHER. An owner may not receive both payment under s. 26.06 (3) and damages specified under sub. (3) (b) or (c) from the same person. An owner may not receive both payment under s. 26.05 (3) (c) and the damages specified in sub. (3) (d) 3.


Double damages under this section are not “punitive damages.” Hartland Ciceron Mutual Insurance Co. v. Elmer, 132 Wis. 2d 481, 363 N.W.2d 252 (Cl. App. 1984).

The proper measure of damages is the market value of the logs reduced by the cost of cutting. Double damages are set by doubling that amount. Tidrich v. Bomkamp, 207 Wis. 2d 142, 560 N.W.2d 252 (1997), 96−2086.

Changes to this section effective June 2, 2000 were not retroactive. The prior version of this section was not the exclusive remedy for timber trespass. Bill’s Distributing, Ltd v. Cormack, 2002 WI App 156, 256 Wis. 2d 142, 647 N.W.2d 908, 256 Wis. 2d 142.

26.10 Reports by the department to the board of commissioners of public lands. The department shall report monthly to the board of commissioners of public lands all trespasses committed, all materials seized, all sales made and all money received under ss. 26.01 to 26.09.

26.105 Forestry and fire prevention study. The Great Lakes Timber Professionals Association and the Wisconsin County Forests Association shall prepare a report containing the results of the forestry and fire prevention study conducted as approved by the joint committee on finance under s. 26.105 (2), 2013 stats., and shall submit the report to the department, the council on forestry, and the appropriate standing committees of the legislature under s. 13.172 (3).


26.11 Forest fires; department jurisdiction; procedure. (1) The department is vested with power, authority, and jurisdiction in all matters relating to the prevention, detection, and suppression of forest fires outside the limits of villages and cities in the state except as provided in s. 26.01 (2), and to do all things necessary in the exercise of such power, authority, and jurisdiction.

(3) The department shall direct and give suitable instructions to and obtain reports as directed from, the entire fire warden force of the state whether in officially established forest protection areas or elsewhere, and it may move about or concentrate the fire warden force as occasion demands.

(4) The department may enter into arrangements or agreements and cooperate with town boards, county boards or committees thereof, with individuals, concerns, corporations or associations, for the purpose of improving the protection against forest fires.

(5) The department may, upon request from the fire chief of a city, town, or village, or the chief executive thereof, supply assistance within the limits of its resources in suppressing a forest fire within the confines of said municipality.

(6) The department, as the director of the effort, may suppress a forest fire on lands located outside the boundaries of intensive or extensive forest fire protection districts but not within the limits of any city or village if the town responsible for suppressing fires within its boundaries spends more than $3,000, as determined by rates established by the department, on suppressing the forest fire and if the town chairperson makes a request to the department for assistance. Persons participating in the suppression efforts shall act at the direction of the department after the department begins suppression efforts under this subsection. Funds expended by the state under this subsection shall be expended from the appropriation under s. 20.370 (2) (mv).

(7) (a) Notwithstanding s. 20.001 (3) (c), if the sum of the unencumbered balances in the appropriation accounts under s. 20.370 (2) (cs) and (mz) exceeds $1,000,000 on June 30 of any fiscal year, the amount in excess of $1,000,000 shall lapse from the appropriation account under s. 20.370 (2) (cs) to the conservation fund, except as provided in par. (b).

(b) Notwithstanding s. 20.001 (3) (c), if the amount in the appropriation account under s. 20.370 (2) (cs) is insufficient for the amount that must lapse under par. (a), the remainder that is necessary for the lapse shall shall lapse from the appropriation account under s. 20.370 (2) (mz).
5  Updated 17–18 Wis. Stats.

26.14  Forest fires, authority of fire fighters, compensation, penalties, civil liability. (1) State forest rangers, town chairpersons, conservation wardens and other duly appointed deputies may in the performance of their official duty go on the lands of any person to fight forest fires, and in so doing may set back fires, dig trenches, cut fire lines or carry on any other customary activities in the fighting of forest fires, without incurring a liability to anyone.

(2) All such forest rangers, town chairpersons, emergency fire wardens, conservation wardens and other duly appointed deputies shall take prompt measures against the spread and illegal setting of forest fires. They may call upon any able−bodied citizen to assist in fighting fires in such manner as they direct.

(3) (a) Emergency fire wardens, and all persons employed by them or by any other duly appointed fire warden for the purpose of suppressing forest fires, shall receive such hourly pay as the department may determine, for the time actually employed. Equipment operators and other specialists shall be paid the prevailing wage rate for comparable skills in each locality. The department may also allow the cost of meals, transportation, and disbursements for emergency equipment.

(b) Of the expenses incurred under par. (a) the state shall pay one−half and the county where the service was performed shall pay one−half.

(c) If the state receives any payment of damages under sub. (9) (b), the county’s share of expenses under par. (b) is reduced by the amount by which the damages received exceed the state’s share of expenses under par. (b). If, at the time the damages are paid, the county has already paid its share of expenses to the state, the state shall reimburse the county the amount by which the damages received exceed the state’s share of expenses.

(4) Emergency fire wardens or those assisting them in the fighting of forest fires shall prepare itemized accounts of their services and the services of those employed by them, as well as other expenses incurred, on blanks to be furnished by the department and in a manner prescribed by the department, and make oaths or affirmation that said account is just and correct, which account shall be forwarded and approved for payment by the department. As soon as any such account has been paid by the secretary of administration the department of natural resources shall send to the proper county treasurer a bill for the county’s share of such expenses. The county shall have 60 days within which to pay such bill, but if not paid within that time the county shall be liable for interest at the rate of 6 percent per year. If payment is not made within 60 days the department of administration shall include such amount as a part of the next levy against the county for state taxes, but no county shall be required to pay more than $5,000 in any one year. Any unpaid levy under this section shall remain a charge against the county and the department of administration shall include such unpaid sums in the state tax levy of the respective counties in subsequent years.

(5) Any person who sets a fire or assists in the setting of a fire, including a back fire, on any lands in this state and fails to totally extinguish such fire before leaving it shall forfeit not more than
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$100 for the first offense and shall be fined not more than $500 or imprisoned for not more than 30 days or both for each subsequent offense.

(6) Any person who sets a fire or assists in setting a fire, including a back fire, on any lands in this state and allows the fire to escape and become a forest fire shall be fined not more than $1,000 or imprisoned not more than 90 days or both.

(7) Any person who sets or assists in setting a fire upon marsh or other land in the state for the purpose of driving out game birds or animals shall be fined not more than $1,000 or imprisoned not more than 90 days or both. The possession of firearms upon any marsh while it is on fire shall be prima facie evidence of such violation.

(8) Any person who intentionally sets fire to the land of another or to a marsh is guilty of a Class H felony.

(9) (a) Nothing in this chapter shall be construed as affecting the right to damages. The liability of persons for damages is not limited to the destruction of merchantable timber but may also include the value of young or immature forest growth.

(b) Any person who sets a fire on any land and allows such fire to escape and become a forest fire shall be liable for all expenses incurred in the suppression of the fire by the state or town in which the fire occurred. For purposes of this paragraph, the state is considered to incur all expenses described under sub. (3). An action under this paragraph shall be commenced within the time provided by s. 893.91 or be barred.


A stipulation of facts stating that there was a “large grass fire” did not necessarily mean there was a forest fire as defined in s. 26.11 (2) [now s. 26.01 (2)].

Howard v. Soo Line Railroad Co.

1997 Wis. 2d 500

217 N.W.2d 329

Unfortunately, the text is cut off and not fully readable. It appears to discuss provisions related to forest fires and the liability of persons for damages.
duties, require any train causing fires or suspected of causing fires to stop within a safe distance from the fires to avoid further setting or spread of fire.

(7) **FIRE PATROL.** All corporations maintaining and operating a railway, during a dangerously dry season, and when so directed by the department, shall provide fire patrols for duty along their tracks. Whenever the department deems necessary it may order the corporations to provide for fire patrol personnel to follow each train throughout forest protection areas as may be necessary to prevent fires. When the department has given a corporation notice that in its opinion the conditions require a patrol after trains, the corporation shall immediately comply with the instructions throughout the areas designated. If the corporation fails to do so, the department may employ fire patrol personnel, and furnish them with the necessary equipment to patrol the rights-of-way of the corporations, and the expense of the patrols shall be charged to the corporation and may be recoverable in a civil action in the name of this state. In addition, the corporation is subject to the penalties under sub. (9). The corporation, acting independently of the department, shall patrol its rights-of-way after the passage of each train when necessary to prevent the spread of fires and use the highest degree of diligence to prevent the setting and spread of fires, and its officers and employees operating trains in this state shall use diligence in extinguishing fires set by locomotives or found existing upon their respective rights-of-way, and any negligence in this regard shall render the corporation or any officer or employee subject to the penalties under sub. (9). Every corporation affected by this section shall designate and register with the department an officer or some other person to be responsible for carrying out the corporation's responsibilities with the highest degree of diligence. If the officer or person fails in the duty, he or she shall forfeit not more than $500.

(8) **INSPECTION AND ENTRY.** The department may inspect or cause to be inspected any locomotive, donkey, or threshing engine, railway locomotive, and all other engines, boilers, and locomotives operated in, through or near forest, brush, or grass land and enter upon any property for such purpose, or where it deems it necessary in order to see that this section is duly complied with.

(9) **PENALTY.** (a) Any corporation, by its officers, agents, or employees, violating this section, shall forfeit not more than $500.

(b) Any corporation, by its officers, agents or employees, willfully violating this section shall be fined not more than $1,000.

(c) Any conductor, individual in charge of a train or officer, agent or employee of a railway who violates this section shall forfeit not more than $500.

(10) **APPEAL TO OFFICE OF THE COMMISSIONER OF RAILROADS.** In case the department and any person operating any locomotive, donkey, or threshing engine, or any engine, boiler, or locomotive cannot agree as to the most practicable device or devices for preventing the escape of sparks, cinders, or fire from smokestacks, ash pans or fire boxes, then the same shall be determined by the office of the commissioner of railroads.

(11) **EXEMPTION.** The department may exempt from sub. (2), (3) and (4) any railroad, when, in its judgment, conditions along the right-of-way are such that the reduced fire hazard renders such protective devices unnecessary.
injurious to permanent forest growth in the district or zone upon which control measures are justified.

(c) “Forest pest” means any insect or disease which is harmful, injurious or destructive to forests or timber.

(d) “Forests” or “forest lands” mean any area on which trees exist, standing or down, alive or dead, actually or potentially valuable for forest products, watershed or wildlife protection or recreational uses in contrast to shade, horticulture or ornamental trees valuable for landscape, agricultural, aesthetic or similar purposes.

(e) “Infestation” includes actual, potential, incipient or emergency infestation or infection by forest pests.

(4) SURVEYS, INVESTIGATIONS AND CONTROL. The department shall make surveys and investigations to determine the presence, condition and extent of infestations and it shall also carry on control measures when necessary. For such purposes the department or its wardens may enter public and private lands at reasonable times without incurring a liability to anyone.

(5) COOPERATIVE AGREEMENTS. To carry out the purposes of this section the department may enter into arrangements or agreements with the University of Wisconsin System, the department of agriculture, trade and consumer protection, other departments of this and other states, the U.S. department of agriculture and other federal agencies and with counties, towns, corporations and individuals.

(6) RESPONSIBILITY OF FOREST LANDOWNERS. Every owner of forest lands or timber shall exercise every reasonable effort to control and destroy forest pests on forest lands or timber owned by or under the control of the owner. In case of the owner’s failure, neglect or inability to do so, the work may be performed as provided in this section.

(6m) GYPSY MOTH SUPPRESSION. (a) If the department establishes a program for the suppression of gypsy moths, and that program includes the awarding and administering of federal cost-sharing funds to counties for aerial insecticide treatment, the department shall promulgate rules to implement the program. The rules shall specify that an area is not eligible for aerial insecticide treatment under the program unless the area is at least 20 compact and contiguous acres in size.

(ag) The rules promulgated under par. (a) shall require that an eligible applicant for funding provide notification to landowners and tenants within the eligible proposed treatment blocks and within an area surrounding those blocks to be determined by the applicant. Notification under this paragraph shall include all of the following:

1. Publication of a class 1 notice under ch. 985 in a local newspaper at least 10 days before a deadline, as designated by the applicant for funding in the notice, for registering an objection by a landowner or tenant to treatment on the land under the landowner’s or tenant’s control.

2. Issuance of a press release at least 10 days before the deadline for objections under subd. 1, that announces the public meeting under subd. 3.

3. Holding of a public meeting by the applicant for funding at least 7 days before the deadline for objections under subd. 1.

(ar) The published notice and press release under par. (ag) shall provide information on the location of proposed treatment blocks, the insecticide to be used, the approximate timing of treatment, the method for registering an objection to the treatment of property, and the name, address, and phone number of the applicant for funding or the applicant’s designee.

(av) The published notice under par. (ag) 1. and the press release under par. (ag) 2. shall state, and a statement shall be made at the public meeting under par. (ag) 3., that all of the following apply:

1. If a landowner or tenant registers a timely objection to treatment on land under the landowner’s or tenant’s control, the applicant for funding may not treat that land.

2. If a landowner or tenant does not register a timely objection to treatment on land under the landowner’s or tenant’s control, the applicant for funding may treat that land.

(b) Subsections (7) to (10) do not apply to a gypsy moth suppression program established under this subsection.

(7) DESIGNATION OF INFESTATION CONTROL ZONES. (a) Whenever the department finds that an area in the state is infested or threatened with infestation by forest pests, it shall determine whether proven measures of control are needed and are available at reasonable cost with respect to the value of the forest lands or timber to be protected and the area affected. Such control measures may be applied through cooperative agreements as provided in subs. (5) and (8) or the department may designate a proposed zone of infestation covering the area in which control measures are to be applied. When a proposed zone of infestation is designated and before the establishment thereof, the department shall hold a public hearing thereon. Notice of such hearing shall be published in one or more newspapers having a general circulation in the county covered in whole or in part by the proposed zone as a class 1 notice, under ch. 985. The notice shall contain a description of the lands included in the proposed zone of infestation and a time and place where owners of forest lands in the proposed zone may show cause orally or in writing why the zone should or should not be established. The department shall consider any statements received in determining whether the zone shall be established. If the department determines that a zone should be established it shall issue an order establishing the zone of infestation.

(b) Upon the establishment of a zone of infestation by the department, notice thereof shall be published in one or more newspapers having a general circulation in the area affected by such zone as a class 1 notice, under ch. 985.

(c) When the department finds that an emergency condition exists and that the delays necessitated by the procedure outlined in pars. (a) and (b) would result in an epidemic or infestation, it may by order establish a zone of infestation without public hearing, giving such notice as it deems feasible.

(8) DEPARTMENT TO CONTROL INFESTATION IF OWNER FAILS TO ACT. Upon the establishment of a zone of infestation, the department shall apply measures of control on public and private forest lands within the established zone if the owner fails, refuses, neglects or is unable to undertake adequate control measures. The department shall endeavor to enter into agreements with owners of forest lands concerning the control work on their lands and fixing a proportional basis on which the costs of such work will be shared between the state and such owner. Failure of the department to offer an agreement to or execute an agreement with any owner shall not relieve the owner of any liability under this section or impair the right of the department to enter on the lands of said owner to conduct control operations.

(9) DISTRIBUTION AND COLLECTION OF COSTS. (a) At the completion of the control measures in any area, or at the end of the calendar year, the department shall prepare a certified statement of the expenses incurred in carrying out such measures including expenses of owners covered by agreements pursuant to sub. (8) but these charges shall not include salary or expenses of regular permanent or seasonal personnel of the department, or operating costs for such regular equipment as may be owned or purchased by the department for insect pest control work. The statement shall show the amount which the department determines to be the state’s share of the expenses, but this amount shall not be less than 50 percent of the balance of such expenses incurred on forest lands after federal funds allocated to a specific control project have been deducted. The share of the state may include any federal aid funds and the value of contributions made available by other cooperators. The balance of such costs shall constitute a charge on an acreage basis against the owners of lands in the area affected by the forest pests for which control measures were conducted. In fixing the rates at which charges shall be made against each owner,
the department shall consider present values and the present and potential benefits to such owner and to the state as a whole from the application of control measures, the cost of applying such measures to the owner’s land, and other such factors as in the discretion of the department will enable it to determine an equitable distribution of the costs to all such owners. No charge shall be made against owners to the extent that they have individually or collectively contributed funds, supplies or services pursuant to agreement, and 160 acres or less of forest land owned by any person within any county shall be exempt from any control cost. If the expenses incurred by the states in forest pest control work have been paid by the secretary of administration, the department shall send to each landowner a bill covering an equitable share of such expenses as herein provided.

1. When such work has been performed on county lands, the department shall send to the proper county treasurer a bill for the county’s share of such expenses and a copy of the bill shall be filed with the department of administration. The county shall have until October 1 of each year to pay such bill. If payment is not made by October 1 of each year, the secretary of state, upon information certified to the secretary of state by the department of administration, shall include such amount as a part of the next levy against the county for state taxes, but no county shall be required to pay more than $5,000 of such amount in any one year. Any unpaid levy under this section shall remain a charge against the county and the secretary of state shall include such unpaid sums in the state tax levy of the respective counties in subsequent years.

2. When such work has been performed on other public or private lands the department shall certify to such owner the claim of the state in writing and list the items of expense incurred in such pest control work. Such claims shall be paid within 60 days and, if not paid within such time, the state may begin an action thereon at any time within 2 years.

3. If any claim is not paid within 60 days, the state may file a mechanics’ lien within 6 months after the 60-day period expires against the land affected in accordance with ch. 779, and shall have the necessary remedies to enforce the lien.

(10) **Dissolution of infestation control zones.** Whenever the department finds that forest pest control within an established zone of infestation is no longer necessary or feasible it shall set aside the order establishing the zone.

*History: 1977 c. 28 ss. 1850m (1); 1977 c. 32 s. 92 (b); 1979 c. 110 s. 60 (11); 1983 a. 189; 1985 a. 13; 1991 a. 316; 2003 a. 33, 57.

Cross-reference: See also s. NR 47.910, Wis. adm. code.

26.35 **Forest productivity.** The department shall identify types of privately owned forest lands which are most likely to provide high forest productivity benefits to the economy of the state. The department shall target its activities in providing assistance to owners of privately owned forest lands in order to concentrate on those types of forest lands identified as most likely to provide high forest productivity benefits to the economy of the state.

*History: 1983 a. 27.

26.36 **Forest energy resources.** Biennially, in consultation with the department of agriculture, trade and consumer protection and any other appropriate agency, the department shall prepare a report regarding the extent of forest lands in this state and the potential of such lands to provide fuel for use in electric generating facilities, industrial facilities and home heating systems. The report shall evaluate progress made in meeting the afforestation goal under s. 1.12 (3) (c). The department shall submit the report before April 1 of each even-numbered year to the legislature under s. 13.172 (3).


**NOTE:** 1993 Wis. Act 414, which creates this section, contains extensive explanatory notes.

26.37 **Lake states wood utilization consortium.** (1) The department of natural resources shall develop a plan to establish a lake states wood utilization consortium to provide research, development, and demonstration grants to enhance the forest products industry in Wisconsin and other states. The plan shall do all of the following:

(a) Define the powers, duties and responsibilities of the consortium.

(b) Establish an implementation committee for the consortium. Members of the committee may include one or more representatives from the department of natural resources, the Wisconsin Economic Development Corporation, and the forest products industry.

(c) Specify eligibility requirements for the grants and criteria for awarding the grants, including how the grants are to be distributed to each state participating in the consortium.

(d) Require that the grants require matching funds or in-kind contributions by industrial recipients of the grants.

(e) Require the implementation committee to identify an organization that can administer and award the grants and oversee the grant program.

(f) Require the consortium to actively pursue funding from the states of Michigan and Minnesota of $200,000 annually from each state for 3 years.

(g) Require the consortium to actively pursue federal and other funding sources.

(2) The department of natural resources may not expend moneys from the appropriations under s. 20.370 (5) (ax) or (6) (bt), 1997 stats., unless the department of natural resources and the Wisconsin Economic Development Corporation first submit to the joint committee on finance the plan required under sub. (1). If the cochairs of the joint committee on finance do not notify the department of natural resources within 14 working days after the date of the submittal of the plan that the committee has scheduled a meeting to review the plan, the plan may be implemented and moneys may be expended as proposed by the department of natural resources. If, within 14 days after the date of the submittal of the plan, the cochairs of the committee notify the department of natural resources that the committee has scheduled a meeting to review the plan, moneys may be expended only after the plan has been approved by the committee.

*History: 1995 a. 27 ss. 1430m, 9116 (5); 1999 a. 185; 2011 a. 32.

26.38 **Forest grant program.** (1) In this section:

(a) “Community” has the meaning given in s. 28.04 (1) (b).

(ag) “Forest stewardship management plan” means a plan describing forest stewardship measures to be used on a particular site to achieve multiple natural resource goals.

(ar) “Nonindustrial private forest land” means rural land that has existing tree cover or that is suitable for growing trees.

(b) “Sustainable forestry” has the meaning given in s. 28.04 (1) (e).

(2m) (a) The department shall establish a program to award grants for developing and implementing forest stewardship management plans by owners of nonindustrial private forest land and to award grants to groups of interested parties for projects to control invasive plants in weed management areas. The department shall award the grants only to persons owning 500 acres or less of nonindustrial private forest land in this state or to groups in which each person participating owns 500 acres or less of nonindustrial private forest land in this state.

(am) Beginning with fiscal year 2008–09, from the appropriated under s. 20.370 (5) (av), the department shall allocate for each fiscal year at least $60,000 for grants for projects to control invasive plants in weed management areas. From the amount allocated, the department shall award grants to all eligible applicants for grants for such projects before awarding any balance of the allocated amount for grants for stewardship management plans.

(b) Each recipient of a grant under this section shall provide a matching contribution in an amount to be determined by the department for that particular grant based on criteria promulgated by rule under sub. (3). The matching contribution may be in the form of money or in-kind goods or services or both.
26.38 **PROTECTION OF FOREST LANDS AND PRODUCTIVITY**

(c) A forest stewardship management plan developed or implemented with a grant under this section shall meet minimum standards that are promulgated by rule under sub. (3) and shall contain practices that protect and enhance all of the following:

1. Soil and water quality.
2. Endangered, threatened or rare forest communities.
3. Sustainable forestry.
4. Habitat for fish and wildlife.
5. The recreational, aesthetic and environmental benefits that the forest land provides.

(3) The department shall promulgate rules to implement and administer this program, including all of the following:

(a) The criteria for determining the amount of a matching contribution under sub. (2m) (b).
(b) The minimum standards required under sub. (2m) (c).
(c) Eligibility requirements for groups receiving grants for weed management areas, requirements for the grants, and requirements for establishing weed management areas.

**History:** 1997 a. 27; 2007 a. 20.

26.39 **Forestry education and training.** (1) **DEFINITIONS.**

In this section:

(a) “School forest” means a community forest that is owned or operated by a school as provided in s. 28.20.
(b) “Sustainable forestry” has the meaning given in s. 28.04 (1) (e).

(2) **FORESTRY EDUCATION CURRICULUM.** SCHOOLS. Using the moneys appropriated under s. 20.370 (2) (cu), the department, in cooperation with the Center for Environmental Education in the College of Natural Resources at the University of Wisconsin–Stevens Point, shall develop a forestry education curriculum for grades kindergarten to 12.

(3) **FUNDING FOR SCHOOL FORESTS.** The department shall use the moneys allocated under s. 28.085 to provide funding to school districts that have school forests for the purposes of maintaining the school forests and for transporting pupils to and from the school forests. The department shall promulgate rules to implement and administer this subsection, including educational and forest management requirements that school districts must meet to receive funding under this subsection.

(4) **FORESTRY INTERNSHIPS.** The department shall use the moneys allocated under s. 28.085 to provide internships to University of Wisconsin System students who are enrolled in a course of study that will result in a bachelor’s or higher degree in forestry. The department shall promulgate rules establishing the application process and the criteria for receipt of an internship under this subsection.

(5) **LOGGING CERTIFICATION SCHOLARSHIPS.** (a) From the appropriation under s. 20.370 (5) (ax), the department shall establish a scholarship grant program to assist individuals who are seeking certification by the Great Lakes Timber Professionals Association as master loggers or who are seeking logger safety training certified by the Great Lakes Timber Professionals Association. A scholarship grant under the program may not exceed 50 percent of the total cost of receiving the certification or training. The department shall promulgate rules that establish criteria for the program.

(b) The department shall allocate $50,000 for fiscal year 2005–06 and $150,000 for each subsequent fiscal year for scholarship grants under this program.


26.40 **Forestry education grant program.** (1c) In this section, “nonprofit organization” means a nonprofit corporation, as defined in s. 181.0103 (17), and any organization described in section 501 (c) (3) of the Internal Revenue Code that is exempt from federal income tax under section 501 (a) of the Internal Revenue Code.

(1m) The department may award grants to nonprofit organizations to develop forestry educational programs and instructional materials for use in the public schools. The department may not award a grant unless it enters into a memorandum of understanding with the grant recipient and the director of the timber management program at the University of Wisconsin–Stevens Point regarding the use of the funds.

(2) The recipient of a grant under sub. (1m) shall submit the programs and materials developed with the funds to the department and the director of the timber management program at the University of Wisconsin–Stevens Point College of Natural Resources for approval. Upon request, the grant recipient shall provide approved programs and materials to school districts free of charge.

**History:** 1997 a. 27; 2001 a. 109; 2005 a. 25 s. 2361m; Stats. 2005 s. 26.40.

26.42 **Forestry diversification.** (1) The department shall establish a forestry diversification program and shall promote and assist the development and use of industrial and commercial products from forestry products, including all of the following:

(a) Alternative fuels, including fuels that are considered to be renewable fuels under the renewable fuel program under 42 USC 7545 (o).
(b) Heat.
(c) Electricity, including electricity that satisfies the requirements in s. 196.378 (2).
(d) Marketable credits for reducing emissions of greenhouse gases, as defined in s. 285.78 (1) (c), derived from appropriate management practices used in the production of timber.

(2) The department shall promote and assist the development and use of the products identified in sub. (1) (a) to (d) in cooperation with and with the assistance of the department of agriculture, trade and consumer protection and the University of Wisconsin–Extension.

**History:** 2009 a. 401.

26.97 **Law enforcement and police power.** A state forest ranger, town chairperson, conservation warden or other duly appointed deputy may do any of the following:

(1) Arrest a person, with or without a warrant, when the person is detected actually committing a violation of this chapter, subch. VI of ch. 77, or s. 167.10 (3), 941.10 (1), 941.11, 941.12, 941.13, 943.02 (1), 943.03, 943.04, 943.05 or 943.06 (2).

(2) Arrest a person, with or without a warrant, whom the ranger, chairperson, warden or deputy has reason to believe is committing or has committed a violation of a statutory provision specified under sub. (1).

(3) Take the arrested person before the circuit court for the county where the violation occurred and make a proper complaint.

(4) Execute and serve any warrant or process in the same manner as any constable.

**History:** 1989 a. 79; 2003 a. 228.

26.98 **General penalty.** Any person who violates a provision of this chapter for which no penalty is provided shall forfeit not more than $50.

**History:** 1975 c. 365; 1983 a. 27 s. 643m; Stats. 1983 s. 26.98.

26.95 **Penalties, repeaters.** (1) In this section, “violation” means any violation under this chapter or any violation of a department order punishable under this chapter.

(2) Except as provided in subs. (3) and (4), if a person is convicted of a violation and has one or more convictions, within the 5 years prior to the current conviction, for one or more violations, the person shall be fined not more than $100 or imprisoned for not more than 6 months or both. The prosecution shall allege and prove the prior convictions in the manner specified in s. 29.974.
(3) Except as provided in sub. (4), if a person is convicted of a violation and has 3 or more convictions, within the 3 years prior to the current conviction, for one or more violations, the person shall be fined not more than $2,000 or imprisoned for not more than 9 months or both. The prosecution shall allege and prove the prior convictions in the manner specified in s. 29.974.

(4) (a) A person under this section is subject to a fine not to exceed the fine under this section or the fine or forfeiture for the underlying offense, whichever is greater.

(b) A person under this section is subject to imprisonment for a term not to exceed the amount provided under this section or the amount provided for the underlying offense, whichever is greater.


26.99 Parties to a violation. (1) Whoever is concerned in the commission of a violation of this chapter for which a forfeiture is imposed is a principal and may be charged with and convicted of the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation.

(2) A person is concerned in the commission of the violation if the person:

(a) Directly commits the violation;

(b) Aids and abets the commission of it; or

(c) Is a party to a conspiracy with another to commit it or advises, hires or counsels or otherwise procures another to commit it.

History: 1975 c. 365.