

Report From Agency

REPORT TO LEGISLATURE

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

Board Order No. FR-07-06
Clearinghouse Rule No. 06-027

Basis and Purpose of the Proposed Rule

The proposed rule will make the annual stumpage rate adjustments as required in ss. 77.06(2) and 77.91(1), Stats., and update the cordwood conversion tables for timber harvested on forest tax law lands. The proposed rule will also make amendments to existing rules to bring them into alignment with rates and values used on public lands (e.g., red pine weight conversion factor, addition of "mixed product" stumpage rates), and amend mandatory practices under the Managed Forest Law to more accurately reflect sound forestry practices needed to insure and maintain adequate stocking on MFL land.

For purposes of the Forest Crop Law (FCL) and the Managed Forest Law (MCL), 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, 2006 through October 31, 2007. The change in rates compared to the current rates is approximately 2% increase for sawtimber and 15% increase for pulpwood. Rates for mixed (co-mingled) products have been added to reflect the manner in which some red pine, white pine and spruce are being sold. Currently there is no mixed product stumpage rate and the rates for each species get averaged into the pulpwood stumpage rates. This can result in skewed pulpwood rates. Creating a mixed product rate will provide for more accurate reporting of pulpwood values and the subsequent pulpwood stumpages rates established in s. NR 46.30. It will also keep the reporting on MFL and FCL lands in line with reporting on public lands, which has already implemented a "mixed product" stumpage rate. The initial rates used will be the same as the pulpwood rates with rates being adjusted each year using "mixed product" rates reported by Department and private foresters.

The Department's Public Lands Forestry team has reviewed a discrepancy between the red pine weight conversion factor of 4500 lbs/cord used on public lands and the red pine weight conversion factor of 4700 lbs/cord set in s. NR 46.30(1) for MFL and FCL lands. The analysis showed that current data and opinion on the weight conversion ranges from 4300 to 5200 lbs/cord. Influencing factors include time of year, soil type, and length of time from being cut. Some of the higher rates can be attributed to the length of the sticks. It was determined that there was insufficient data to support changing the current weight conversion factor used for public lands. The recommendation was made to revise the red pine weight conversion factor in ch. NR 46 to match the public lands factor in order to decrease confusion and eliminate the discrepancy.

There are two mandatory practices related to regeneration that need to be updated to more accurately reflect sound forestry practices. The practice listed in s. NR 46.18(2)(c) states "release of conifers from competing vegetation". This is being modified to include release of hardwoods from competing vegetation. When the rules for the Managed Forest Law were written, the primary species being planted for timber products production were conifers (e.g., red pine, white pine and spruce). There was little emphasis on planting hardwoods (oak, walnut, maple and ash). Today there are substantial numbers of hardwood being planted including oaks, maples, walnut and ash. These species need release from competing vegetation to insure survival just as conifers do.

The practice listed in s. NR 46.18(2)(e) states “post-harvest treatment to insure adequate regeneration”. This is modified to include pre-harvest treatments to insure adequate regeneration as well. Both pre-harvest and post-harvest treatments can be used to insure adequate regeneration in a stand. Pre-harvest treatments (done before a timber sale is completed) are often less costly and more effective because the landowner does not have to work around timber sale slash. Typical practices may be scarification of a site to prepare the seed bed prior to the timber sale or the first stage of a shelterwood system where the only stems that need to be removed are non-commercial stems (less than 5 inches in diameter). Scarifying a site or removing non-commercial stems is easier prior to the timber sale.

Summary of Public Comments

Public comments contained recommendations to adjust some of the proposed stumpage rates up and some of the proposed rates down. One comment included a suggestion to calculate rates using private data only. The establishment of the mixed products rate was supported. There was comment both in support and in opposition to the weight conversion factor change. Comment on the modification of the mandatory practices was primarily in support. A landowner organization opposed the change for existing MFL entries and also expressed a desire that there be cost sharing available for these practices.

Modifications Made

Adjustments were made to 27 sawtimber rates and 19 pulpwood rates to reflect comments received. No changes were made to the mandatory practices; however, in response to public comments, the changes in mandatory practices will be implemented in plans for new MFL entries. Existing MFL plans will not be changed without the consent of both the landowner and the Department. Cost sharing for these type of practices is currently available through the Wisconsin Forest Landowner Grant Program.

Appearances at the Public Hearing

In support – none

In opposition:

Ian Johnstone, Louisiana Pacific, 16531 West Nursery Road, Hayward, WI 54843

As interest may appear - none

Changes to Rule Analysis and Fiscal Estimate

The summary in the analysis was changed to include the changes recommended by the Legislative Council Rules Clearinghouse and to reflect the revised average change in sawtimber stumpage rates (2% increase) and the pulpwood stumpage rates (15% increase). The averages were revised as a result of changes to some of the stumpage rates based on comments received in the hearing process.

The fiscal estimate was updated as a result of the changes made to the proposed stumpage rates. The impact to local governmental unit revenues was adjusted from a \$293,000 increase to a \$193,000 increase.

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 voluntarily enrolled under the Forest Crop Law and the Managed Forest Law are required by statute 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.