

Clearinghouse Rule 09-031

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

The Wisconsin Natural Resources Board proposes an order to amend NR 46.16 (5), amend NR 46.18(5)(a)1., NR 46.18(5)(1)2., NR 16.18(5)(a)3. repeal NR 46.30(2)(a) to (d) and create NR46.30(2)(a) to (f) relating to the administration of the Forest Crop Law and Managed Forest Law.

FR-09-09

Analysis Prepared by the Department of Natural Resources

Statutes interpreted: Section 77.06 (2) and subch. VI Ch. 77, Stats .

Statutory authority: Sections 77.06 (2), 77.82 (3) (c), 77.91 (1), Stats., and 227.11(2)(a), Stats. Sections 77.06 (2) and 77.91 (1), Stats. directs the department to establish stumpage rates on an annual basis for use in determining the severance and yield taxes assessed when timber is harvested from lands designated as forest crop land and managed forest land. New rates shall take effect on November 1 each year. Section 77.82 gives implicit authority the department to create rules for processing petitions.

Analysis of proposed rules.

Annual Stumpage Rate Adjustment: For purposes of the Forest Crop Law (FCL) and the Managed Forest Law (MFL), this rule repeals NR 46.30(2)(a) to (d) and recreates NR 46.30(2)(a) to (f) to revise annual stumpage values used to calculate severance and yield taxes due on timber cut during the period from November 1, 2009 through October 31, 2010. Two new stumpage tables are created to represent new stumpage values used to calculate severance and yield taxes due on timber if the timber is sold by weight (tons). Thirteen separate zones reflect varying stumpage values for different species and products across the state.

Timber prices have been variable from 2007 through 2008. The average statewide prices for sawlogs have increased 3%, with a range of a 21% increase to a 15% decrease. The average statewide prices for cords have increased 1%, with a range of a 10% increase to a 7% decrease. Prices for mixed products (mixture of sawlogs and cords for red pine, white pine and spruce) have dropped 12%, with a range of a 14% increase and a 31% decrease. Piece products (posts and poles) had a 12% increase in prices, with some market zones having an increase in prices of 96%. The increase in piece prices appears to be due to the additional reporting of piece products more than fluctuations in the markets. Only 12 of the available 143 piece product values were reported in the past year. This reporting is more than past years' reporting, so it is possible that piece products may be undervalued in some market zones.

While the statewide averages increased slightly, there are fluctuations between market zones and individual prices. Of all total 624 prices calculated, 173 (28%) increased, 188 (30%) decreased and 263 (42%) stayed the same.

The severance and yield tax collected in CY 2008 was \$1,734,479. This value is 17% lower than it was in CY 2006. Timber harvest volumes are down since CY 2007 by the following amounts:

Timber Product	% Change
Cordwood	Down 11%
Fuelwood	Down 5%
Sawlogs	Down 11%
Mixed Product	Up 510%
Piece Products	Down 43%
Christmas Trees	Down 16%

Reporting of mixed products increased most likely due to the awareness that private landowners may sell red pine, white pine and white spruce in this fashion. Based on the very small statewide increase in timber prices an estimated \$3,090.00 will be collected for municipalities.

Estimates are based on the average change in rates for private land timber sales across species and zone for each product type (cordwood, sawtimber and mixed), the volumes reported and paid for in CY 2008, and the assumption that the volume and the ratio of the cordwood and sawtimber will remain the same. Actual impact for a county and municipality will vary by the number of harvests completed and the actual species and products cut.

Amendments to petition requirements in NR 46.16 (5): Petition requirements are being changed to streamline the administration and processing of new MFL entries.

Currently, NR 46.16 (5) requires that *[A]ll eligible MFL land under the same ownership, when applied for designation in the same year, shall be designated under the same order of designation.* This rule, in effect, requires that lands that are not adjacent to each other, including lands that lie in different counties in the state, are entered under the same MFL order.

2005 Wisconsin Act 299 had removed the eligibility requirement that lands must consist of at least 10 contiguous acres in a single municipality. With the municipal lines requirement removed, lands that span across municipal lines, including township, village, city and county lines, may be entered into the MFL program as long as they meet eligibility requirements (i.e. are 10 acres and 80% productive).

DNR in kind removed statements to eliminate municipal lines in NR46. This change caused lands that lie in different parts of the state to be entered under the same MFL order. Landowners, DNR Foresters and Certified Plan Writers are confused with who is responsible for preparing and reviewing these MFL entries.

Since it appeared that the legislative intent was to allow a landowner's adjacent lands that do not meet the eligibility requirements per municipality to be entered under MFL, an argument can be made that a landowner's land that does meet the eligibility requirement per municipality can and should be entered under its own MFL order.

To simplify entry and administration of MFL lands DNR would allow entries of land per municipality except in cases where lands must cross municipality lines to meet eligibility requirements.

Amendments to management plan requirements in NR 46.18 (5): Deadlines to submit management plans for DNR approval are being changed to make the two application deadlines similar to each other.

Currently certified plan writers (CPWs) must submit a “completed and approved management plan to the Department by the 2nd July 1 after the landowner’s initial application is received. A high percentage of the CPW prepared management plans need minor adjustments or slight corrections before they can be approved. Creation of a draft plan deadline date would allow for any corrections to be made prior to the final deadline. This change to NR 46 suggests a June 1 draft deadline date and allows “completed and approved” plans to be returned on or before August 15. These deadline dates increase the time available to CPW’s to finalize their work.

Landowners with management plans prepared by DNR foresters must return their signed plans by August 1. A change in this deadline to August 15 is proposed to make the certified plan writer and DNR deadline the same for landowners to turn in completed management plans.

Comparison of Federal Regulations: There are no known federal rules which apply to stumpage rates or Managed Forest Law petitions. There are no known federal rules that define ownerships. There are no specify deadlines for submittal of management plans for MFL designation.

Comparison of Adjacent States: Checks with the surrounding states of Minnesota, Michigan, Iowa and Illinois indicate that while they offer some type of incentive program to forest landowners, none of the states have similar forestry practice requirements nor do they calculate annual stumpage rates for severance and yield taxes in conjunction with their programs.

Anticipated cost by private sector:

For owners of land designated as MFL or FCL there is an anticipated increase in cost associated with the increase in yield tax on MFL and severance tax on FCL based on the average increase in stumpage rates proposed for both pulpwood (1% increase) and saw timber (3% increase). Actual cost could be an increase or decrease depending on the specific species, product and zone.

Changes associated with submitting and approving management plans prepared by certified plan writers and DNR foresters will have no fiscal effect and allow additional time for plans to be written and approved.

Summary of factual data and analytical methodologies: Stumpage rate data is collected from Department Foresters and Cooperating Foresters annually. This data is used to calculate a three year weighted average for each species and product by zone. Only data obtained from private timber sales was used in the stumpage rate calculation.

$$\frac{\left[\frac{\text{wtd avg current year minus 3 selling price} + \text{wtd avg current year minus 2 selling price} + \text{wtd avg current year minus 1 selling price}}{3} \right] + \text{wtd avg current year minus 1 selling price}}{2} = \text{Base Rate}$$

The current rates in NR 46.30 are compared to the proposed rates to determine the average change in rates by product.

Analysis to determine effect on small business: A review of the law shows the impact on small business. The actual impact is dependant on the amount of timber (if any) is scheduled to be harvested on their specific land during this stumpage rate year.

Effect on Small Business: This rule will impact small businesses (i.e., farmers, landowners) that have land designated as managed forest land or forest crop land. Those involved in this voluntary program pay a reduced tax in place of the regular property tax in exchange for sound forest management on the land. When timber is harvested they pay a 5% yield tax or 10% severance tax, which is calculated using the stumpage rates established in NR 46.30. At the time of entry into these programs the owner pays for the preparation of a management plan, which includes sound forest management practices that must be completed during the order period to ensure and maintain a healthy stand of timber.

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Comments are to be submitted by May 29, 2009 to:

Kathryn Nelson, Forest Tax Section Chief
Forest Tax Section, Bureau of Forest Management
Wisconsin Department of Natural Resources
PO Box 7963
Madison, WI 53707

Comments may also be electronically submitted at the following Internet site:
<http://adminrules.wisconsin.gov>

SECTION 1. NR 46.16 (5) is amended to read:

NR 16.16 (5) SAME OWNERSHIP. All eligible land under the same ownership and located in the same municipality, when applied for designation in the same year, shall be designated under the same order of designation. Ineligible lands under the same ownership and located in a adjacent municipalities that are contiguous to lands applied for designation in the same year that when combined will meet eligibility requirements shall be combined under the same order of designation.

SECTION 2. NR 46.18 (5) (a)1. is amended to read:

NR 46.18 (5)(a)1. Management plans prepared by an independent certified plan writer shall be approved by the department, signed by the landowner, and submitted to the department forester no later than August 15 ~~July 1~~ of the year in which the order of designation will be issued. The department shall deem a management plan completed if all the following apply:

1. A draft of the management plan packet was submitted to the department for review on or before June 1.
2. The management plan includes all requirements under subs. (1) to (3) and meets department standards.
3. The department has approved the management plan.
4. The owner has signed the management plan.

SECTION 3. NR 46.18 (5)(a) 2. is amended to read:

NR 46.18 (5)(a)2. As a condition of designating the land, the owner shall sign the department prepared and approved management plan and return it to the department no later than August 15 ~~August 1~~ of the year in which the order of designation will be issued unless otherwise specified by the department. The petitioner shall pay the plan preparation fee no later than October 1 of the year in which the order of designation will be issued.

SECTION 4. NR 46.18 (5)(a) 3. is amended to read:

NR 46.18 (5)(a)3. Failure to submit a management plan prepared by an independent certified plan writer no later than August 15 ~~July 1~~ or return the signed department prepared management plan no later than August 15 ~~August 1~~ or a later date agreed to by the department will result in a denial of the petition.

Section 5. NR 46.30 (2) (a) to (d) is repealed and NR 46.30(2)(a) to (f) is created to read:

NR 46.30(2)(a) Logs (stumpage value per thousand board feet measurement by the Scribner Decimal C log rule).

2010 Rates - Effective Nov. 1, 2009													
ZONES													
	1	2	3	4	5	6	7	8	9	10	11	12	13
	Wau- kesha	Green Bay	Crivitz	Wausau	Wau- toma	Dodge- Ville	Rhine- lander	Adams	Richland Center	Hay- ward	Eau Claire	River Falls	Sparta
Aspen	78.41	65.19	158.21	61.15	53.81	58.96	78.85	58.87	56.13	85.62	129.55	79.67	57.46
Ash	117.59	163.21	115.03	143.14	111.36	126.00	207.30	146.72	142.04	148.46	137.04	109.81	80.00
Basswood	145.77	160.99	165.95	156.09	107.36	144.23	204.43	137.44	124.81	153.79	112.71	117.35	103.99
Birch													
White	110.00	123.70	139.15	151.51	50.83	65.75	224.67	64.44	75.66	172.09	71.32	111.15	93.23
Yellow	200.00	279.98	266.11	105.09	229.00	229.00	234.50	97.76	252.00	219.40	116.50	69.00	112.08
Cedar	80.00	123.03	123.85	188.15	60.00	400.00	80.00	80.00	NA	80.00	80.00	450.00	80.00
Cherry	605.24	792.00	542.22	307.65	380.52	536.27	345.01	413.00	556.45	432.00	435.41	283.50	377.78
Elm	57.95	17.67	119.16	57.19	42.82	56.97	20.00	112.50	55.90	89.00	24.00	6.00	60.00
Fir	NA	50.00	50.00	94.00	NA	50.00	90.00	NA	NA	27.50	110.00	100.00	100.00
Hemlock	NA	51.75	53.00	159.00	NA	NA	70.00	NA	NA	300.00	100.00	500.00	57.00
Maple													
Sugar	432.24	591.13	517.89	460.07	265.51	461.32	445.16	377.96	385.45	360.47	310.25	328.21	479.98
Red	136.00												
Other	150.00	180.46	266.63	181.67	192.67	174.40	258.62	196.84	149.32	200.69	141.38	124.58	155.04
Other Hardwoods	267.27	94.61	88.36	128.39	117.46	209.41	214.36	201.05	113.96	136.46	116.06	124.12	120.37
Oak													
Red	350.45	465.30	461.31	325.04	335.20	377.29	303.50	317.47	348.21	282.82	308.81	291.76	329.19
White	185.29	229.71	151.54	167.37	180.49	223.50	133.00	178.31	173.34	117.12	117.58	139.11	136.53
Other	145.38	185.42	161.82	159.46	153.24	165.81	150.85	144.07	164.48	159.64	122.32	177.78	167.34
Pine													
Jack	72.00	72.00	72.00	72.00	141.00	72.00	100.00	45.00	62.00	135.00	70.00	60.00	70.00
Red	57.00	94.00	74.17	90.73	106.01	63.00	143.78	109.86	128.69	79.86	63.10	82.01	111.92
White	165.00	89.90	147.91	132.69	112.60	114.00	133.22	173.74	103.55	91.63	109.56	111.90	164.85
Spruce	90.00	138.20	45.00	168.18	78.00	99.00	69.60	80.00	62.00	120.23	150.00	49.00	25.00
Tamarack	50.00	117.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00
Black Walnut	1,437.50	NA	NA	250.00	967.73	1,576.77	252.00	NA	1,318.17	NA	400.00	979.67	1,395.13

NA - Not Applicable - This species/product is not normally harvested within this zone.

Note: Stumpage values used to calculate severance and yield taxes during any specific period are intended for the purposes of the Forest Crop Law and Managed Forest Law. They are not a guarantee of actual market prices. Actual market prices can fluctuate, both up and down, and are the product of macro and micro-economic conditions reflecting specific factors of each individual sale.

NR 46.30(2)(b) Cord Products - 128 cubic feet of wood, air and bark assuming careful piling.

2010 Rates - Effective Nov. 1, 2009

	ZONES												
	1	2	3	4	5	6	7	8	9	10	11	12	13
	Wau- kesha	Green Bay	Crivitz	Wausau	Wau- toma	Dodge- ville	Rhine- Lander	Adams	Richland Center	Hay- ward	Eau Claire	River Falls	Sparta
Aspen	13.75	17.91	31.11	25.10	14.53	10.40	29.99	24.12	16.14	26.90	24.24	25.24	22.75
Basswood	12.00	7.00	12.27	11.16	5.00	1.80	12.89	10.75	3.57	12.79	8.20	6.64	3.09
Birch	12.00	12.19	27.71	25.40	14.29	3.00	32.92	22.82	8.00	27.50	21.51	19.72	15.63
Cedar	6.00	11.75	37.11	21.13	20.00	10.00	8.56	10.00	1.00	10.00	10.00	10.00	10.00
Fir	NA	4.26	20.64	14.17	22.86	NA	14.72	22.00	NA	19.31	16.00	20.00	15.00
Hemlock	NA	6.50	9.21	9.39	NA	NA	10.82	13.00	8.00	23.33	13.00	13.00	13.00
Other Hardwood	21.26	13.54	28.75	25.56	17.78	7.93	26.75	25.37	11.69	24.43	24.60	21.40	24.90
Oak	10.00	25.00	18.86	16.43	18.45	5.45	16.23	45.96	14.49	20.44	16.54	13.71	17.94
Pine													
....Jack	20.00	29.39	40.12	32.35	31.13	18.00	28.40	31.44	29.14	40.68	28.01	35.14	35.85
....Red	18.64	16.59	54.30	34.72	40.80	23.75	43.12	37.67	29.72	55.30	34.99	29.36	32.12
....White	14.79	20.34	23.19	20.65	28.84	20.00	13.81	25.42	13.39	18.19	21.13	17.23	22.07
Spruce	16.64	23.67	36.13	33.27	36.42	42.00	32.33	29.90	25.00	31.44	28.36	26.13	20.43
Tamarack	18.00	12.00	23.37	12.71	20.72	13.00	13.47	15.43	19.00	11.23	38.00	43.00	15.00
Fuelwood	10.00	11.00	17.68	9.04	17.88	5.00	5.03	1.25	5.27	2.56	6.00	10.00	3.93

NA - Not Applicable - This species/product is not normally harvested within this zone.

Note: Stumpage values used to calculate severance and yield taxes during any specific period are intended for the purposes of the Forest Crop Law and Managed Forest Law. They are not a guarantee of actual market prices. Actual market prices can fluctuate, both up and down, and are the product of macro and micro-economic conditions reflecting specific factors of each individual sale.

NR 46.30(2)(c) Cord products by weight (stumpage value per ton).

2010 Rates - Effective Nov. 1, 2009

	2010 Rates - Effective Nov. 1, 2009												
	ZONES												
	1	2	3	4	5	6	7	8	9	10	11	12	13
	Wau- kesha	Green Bay	Crivitz	Wausau	Wau- toma	Dodge- ville	Rhine- Lander	Adams	Richland Center	Hay- ward	Eau Claire	River Falls	Sparta
Aspen	5.33	7.56	13.78	8.89	7.56	5.78	10.22	11.11	6.67	11.11	11.11	12.00	9.78
Basswood	6.23	3.64	6.23	4.68	3.12	3.12	6.23	5.19	2.60	5.71	4.68	4.68	2.60
Birch	5.00	5.83	14.17	10.00	10.00	4.17	10.83	8.75	3.33	11.67	9.17	8.75	5.42
Cedar	3.81	8.89	22.22	6.35	12.70	6.35	10.16	6.35	NA	6.35	6.35	6.35	6.35
Fir	NA	3.75	10.35	7.06	9.88	NA	7.53	10.35	NA	9.41	7.53	9.41	7.06
Hemlock	NA	5.66	4.58	4.17	NA	NA	7.50	5.42	3.33	8.75	5.42	5.42	5.42
Other Hardwood	4.53	5.66	10.19	8.68	7.17	2.26	9.06	9.81	3.40	9.81	8.68	7.92	8.30
Oak	3.64	5.45	6.91	5.45	6.18	1.82	5.82	7.27	4.00	4.73	5.82	4.36	5.45
Pine													
....Jack	9.41	12.71	18.82	13.18	13.65	8.47	16.94	14.59	14.12	17.41	13.65	18.82	14.59
....Red	8.89	9.78	24.89	17.33	18.22	6.67	19.11	17.33	9.33	18.67	20.00	16.44	17.33
....White	8.57	8.57	10.95	9.52	12.86	8.57	6.19	10.48	8.10	8.57	11.43	9.52	10.48
Spruce	10.00	10.00	18.50	14.50	18.50	21.00	16.50	15.00	12.50	15.00	12.00	15.50	13.00
Tamarack	7.74	9.03	9.89	5.16	7.74	5.59	5.16	6.45	8.17	8.17	16.34	18.49	6.45
Fuelwood ¹	3.77	4.15	5.28	3.77	2.64	1.89	5.66	5.28	3.77	3.02	2.26	3.77	3.40
Biomass ²	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25

1 Pulpwood and larger sized products that are dead or cull material that is not merchantable as pulpwood or sawlogs due to quality.

2 Biomass consists of tops and branches other materials that are not large enough to market as pulpwood.

NA - Not Applicable - This species/product is not normally harvested within this zone.

Note: Stumpage values used to calculate severance and yield taxes during any specific period are intended for the purposes of the Forest Crop Law and Managed Forest Law. They are not a guarantee of actual market prices. Actual market prices can fluctuate, both up and down, and are the product of macro and micro-economic conditions reflecting specific factors of each individual sale.

NR 46.30(2)(d) Mixed products (stumpage value per cord). Only for use with red pine, white pine and spruce.

2010 Rates - Effective Nov. 1, 2009													
ZONES													
	1	2	3	4	5	6	7	8	9	10	11	12	13
	Wau- kesha	Green Bay	Crivitz	Wausau	Wau- toma	Dodge- ville	Rhine- lander	Adams	Richland Center	Hay- ward	Eau Claire	River Falls	Sparta
Pine													
Red	35.00	25.47	38.78	47.55	46.53	45.00	44.39	44.36	22.38	52.91	29.91	40.89	38.78
White	25.00	11.75	40.00	31.20	31.24	15.00	16.03	36.65	16.40	17.27	50.00	37.96	27.63
Spruce	31.00	19.77	39.00	34.00	29.07	15.00	15.00	35.00	22.50	35.00	29.00	15.00	38.00

Note: Stumpage values used to calculate severance and yield taxes during any specific period are intended for the purposes of the Forest Crop Law and Managed Forest Law. They are not a guarantee of actual market prices. Actual market prices can fluctuate, both up and down, and are the product of macro and micro-economic conditions reflecting specific factors of each individual sale.

NR 46.30(2)(e) Mixed products by weight (stumpage value per ton). Only for use with red pine, white pine and spruce.

2010 Rates - Effective Nov. 1, 2009													
ZONES													
	1	2	3	4	5	6	7	8	9	10	11	12	13
	Wau- kesha	Green Bay	Crivitz	Wausau	Wau- toma	Dodge- ville	Rhine- lander	Adams	Richland Center	Hay- ward	Eau Claire	River Falls	Sparta
Pine													
Red	15.56	12.44	25.78	18.22	26.67	16.00	21.33	24.89	16.44	28.00	21.33	17.78	19.56
White	11.90	11.43	19.05	21.43	17.14	7.14	10.48	16.19	9.52	11.90	12.38	10.48	18.10
Spruce	15.50	15.50	19.50	17.00	21.00	7.50	19.50	17.50	13.00	17.50	14.50	17.00	19.00

Note: Stumpage values used to calculate severance and yield taxes during any specific period are intended for the purposes of the Forest Crop Law and Managed Forest Law. They are not a guarantee of actual market prices. Actual market prices can fluctuate, both up and down, and are the product of macro and micro-economic conditions reflecting specific factors of each individual sale.

NR 46.30(2)(d) Piece products (stumpage value per piece).

2010 Rates - Effective Nov. 1, 2009

	ZONES												
	1	2	3	4	5	6	7	8	9	10	11	12	13
	Wau- kesha	Green Bay	Crivitz	Wausau	Wau- toma	Dodge- ville	Rhine- lander	Adams	Richland Center	Hay- ward	Eau Claire	River Falls	Sparta
Posts & Poles													
7 and 8 ft.	0.70	0.60	10.00	0.70	0.60	0.70	0.60	0.80	0.70	0.80	0.70	0.60	0.60
10 and 12 ft.	2.10	1.90	1.60	2.10	1.90	2.10	70.45	2.30	2.10	33.00	2.10	1.90	1.90
14 and 16 ft.	3.50	3.10	3.10	3.60	3.30	3.50	2.90	3.90	3.50	37.17	3.50	3.10	3.10
18 and 20 ft.	7.00	6.20	5.30	7.10	6.50	7.00	5.90	7.70	7.00	7.60	7.00	6.20	6.20
21 and 30 ft.	10.10	8.90	7.60	10.20	9.30	10.10	8.40	11.00	10.00	1.15	10.00	1.10	8.90
31 and 40 ft.	17.40	15.40	13.20	20.00	16.00	17.40	27.30	19.10	17.40	80.00	17.30	15.30	15.40
41 and 50 ft.	26.00	23.00	19.70	25.00	24.00	26.00	20.00	28.50	26.00	80.00	25.90	45.00	23.00
51 and 60 ft.	35.90	31.80	27.30	36.50	33.10	35.90	30.10	49.50	45.00	39.00	35.80	31.60	31.80
61 and 70 ft.	47.00	41.60	73.00	47.70	43.30	47.00	39.30	51.50	47.00	51.00	46.80	41.40	41.60
Christmas Trees													
Unsheared	2.00	2.00	2.00	2.00	2.00	2.00	3.80	2.00	2.00	2.84	2.00	4.00	3.00
Sheared	6.70	6.70	6.70	6.70	6.70	6.70	6.28	6.70	6.70	6.70	6.70	6.70	6.70

Note: Stumpage values used to calculate severance and yield taxes during any specific period are intended for the purposes of the Forest Crop Law and Managed Forest Law. They are not a guarantee of actual market prices. Actual market prices can fluctuate, both up and down, and are the product of macro and micro-economic conditions reflecting specific factors of each individual sale.

SECTION 6. EFFECTIVE DATE. This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro), Stats.

SECTION 7. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on _____.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____.
Matthew Frank, Secretary

(SEAL)