

Report to
Legislative Council Rules Clearinghouse
NR 46, Wis. Adm. Code
Natural Resources Board Order No. FR-04-10

Wisconsin Statutory Authority

Sections 77.06 (2), 77.82 (3) (c), 77.91 (1), Wis. Stats., and 227.11(2)(a), Wis. Stats. Sections 77.06 (2) and 77.91 (1), Wis. 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 to the department to create rules for processing petitions.

Federal Authority

N/A

Court Decisions Directly Relevant

None

Analysis of the Rule – Rule Effect – Reason for the Rule

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 (g) and recreates NR 46.30(2)(a) to (h) to revise annual stumpage values used to calculate severance and yield taxes due on timber cut during the period from November 1, 2010 through October 31, 2011. One new stumpage table is created to represent stumpage values used to calculate severance and yield taxes on timber if the timber sold by weight (tons) includes both pulpwood and fine woody material. Thirteen separate zones reflect varying stumpage values for different species and products across the state.

Timber prices have steadily fallen throughout the past year, although overall prices did not fall as significantly as what was observed one year earlier. The average statewide prices for sawlogs decreased 3%, with a range of a 13% increase to a 34% decrease. The average statewide prices for pulpwood decreased 4%, with a range of a 16% increase to a 20% decrease. Prices for mixed products (mixture of sawlogs and pulpwood for red pine, white pine and spruce) have dropped 3%, with a range of a 32% increase and a 21% decrease. Piece products (posts, poles and Christmas trees) had a 1% increase in prices, with some market zones having an increase in prices of 4% to a 1% decrease.

While the statewide stumpage rates largely decreased, there are fluctuations between market zones and individual prices. Of all total 630 prices calculated, 149 (24%) increased, 198 (31%) decreased and 283 (45%) stayed the same.

The severance and yield tax collected in CY 2009 was \$ 1,284,934. This value is 26% lower than it was in CY 2008. Timber harvest volumes are down since CY 2008 by the following amounts:

Timber Product	% Change
Cordwood	Down 17%
Fuelwood	Up 97%
Sawlogs	Down 20%
Mixed Product	Up 106%
Piece Products	Down 2%

If the same amount of timber is harvested in 2011 as was harvested in 2009, local municipalities will receive a decrease in the yield and severance tax payments by an estimated \$1,500. 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 2009, 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 minimum medium density of plantations in NR 46.02(24m) and NR 46.18(2)(d): Stocking requirements are established to determine when lands are adequately stocked and capable of fully utilizing the site to grow forest products in a reasonable time frame. Fully stocked stands can be thinned or harvested at regular intervals, providing Wisconsin's forest products industry with valuable raw material and local municipalities with a periodic income through payment of severance and yield taxes.

The minimum medium density for plantations has been established at 600 trees per acre. Current research has shown that plantations have the ability to fully utilize the size at lower densities than was previously determined, as long as the trees are evenly distributed throughout an area. NR 46.02(24m) and NR 46.18(2) will be amended to establish the minimum medium density for a plantation at 400 trees per acre to reflect this new information.

Amendments to the managed forest law petition deadlines and management plans if petitions from owners of land entered as forest crop land are subject to an ownership change within 18 months prior to the end of the forest crop law contract period in NR 46.16(1)(cm) and NR 46.18(5)(c).

Landowners who purchase expiring forest crop law lands within 18 months prior to the expiration of forest crop law contract may be interested in enrolling in the managed forest law program. New landowners, depending upon the date of purchase, may find it difficult to meet the petition deadlines established by statute and administrative code. Forest crop law lands that are not immediately enrolled in the managed forest law are placed on the regular property tax rolls and landowners are assessed a termination tax.

NR 46.16(1)(cm) is created to allow landowners who purchase expiring forest crop law lands within 18 months prior to the end of the forest crop law expiration the opportunity to apply for the July 1 petition deadline or later for good cause to be considered for designation effective the following January 1.

Management plans would need to be developed by certified plan writers; however management plans would not need to have been previously reviewed by the department by the deadline date of March 1. Department review of the managed forest law petition will be done according to the provisions of NR 46.18(5).

Amendments to the requirements for additions to existing managed forest land in NR 46.16(7):

Recent changes to NR 46.16(5) required that landowners enroll lands by municipality except when lands on either side of the municipal line do not meet eligibility requirements. Changes to NR 46.16(7) will require that the same eligibility requirements apply to additions as well as new enrollments so that additions across municipal lines are done only in situations where lands cannot qualify for a new entry under NR 46.17 and s. 77.82(1)(a), Stats.

Amendment to the format that Certified Plan Writers submit plan writing data to the department in NR 46.165(4)(f):

The method in which certified plan writers submit their plan preparation costs for work done in the previous 12 months is being amended to make it easier for certified plan writers to submit the data.

Currently, NR 46.165(4)(f) requires that certified plan writers submit their plan preparation cost by base rate per plan plus the cost per acre. Many certified plan writers charge clients an hourly rate or a per acre rate. These certified plan writers are not able to easily determine their base rate and cost per acre.

The change to administrative code will eliminate the requirement to submit a base rate per plan.

The department collects this information in order to determine the average cost of plan writing services statewide. This average value is used to charge landowners for plan writing services on plans that the department writes.

Eliminate the requirement that offers for plan writing services must be in writing and guarantee that plans are submitted for the following July 1 deadline in NR 46.18(7)(c):

Management plans that are submitted for the July 1 petition deadline without a management plan or indicating a certified plan writer are placed on a management plan referral list. Certified plan writers are given the opportunity to offer plan writing services to landowners.

NR 46.18(7)(c) provided that certified plan writers must submit their offers in writing and include the cost for the management plan preparation service and guarantee that an approvable plan will be completed by the following July 1. The department does not require that it receive a copy of the offer, only that a certified plan writer report that an offer has been made within 5 days of the offer under NR 46.18(7)(d).

The managed forest law statutes and administrative codes establish the eligibility and management provisions of the program, but do not establish the business practices of

certified plan writers in working with private landowners. Additionally, the cooperating forester agreement (note: certified plan writers must also be a cooperating forester) states that cooperating foresters have sole control over the methods, hours worked, and time and manner of any performance under the agreement other than as expressly required by the Cooperative Agreement.

Because the department has no mechanism to insure that written offers are provided to landowners, and because the department does not direct the business practices of certified plan writers, NR 46.18(7)(c) this provision will be removed from administrative code.

Amendment of the format in which the department charges landowners for plan writing services in NR 46.18(8)(b).

The department must charge landowners a plan preparation fee that includes a base rate and a rate per acre. Changes to NR 46.165(4)(f) to eliminate the requirement to submit a base rate per plan will require the department's billing procedure to also change. Changes to NR 46.18(8)(b) will eliminate the base rate per plan.

Agency Procedures for Promulgation

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

Description of any Forms (attach copies if available)

None.

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