

Chapter NR 46

FOREST TAX PROGRAM

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Note: Chapter NR 46 as it existed on January 31, 1980 was repealed and a new chapter NR 46 was created effective February 1, 1980.

NR 46.01 Purpose. It is the purpose of this chapter to interpret, enforce and administer the provisions of the Wisconsin statutes pertaining to the forest croplands program, the woodland tax law program and any other tax programs concerning private forest lands.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80.

NR 46.02 Definitions. (1) "Burning" means the presence of fire on forest land, except when used as a prescribed tool in the practice of sound forestry.

(2) "Commercial forest land" means forest land capable of producing wood products within 100 years and not withdrawn from timber production.

(3) "Department" means the state of Wisconsin department of natural resources.

(4) "Domicile" means the place of permanent residence.

(5) "Fishing" means taking, capturing, killing or fishing for fish of any variety in any manner under general provision. Landowners may prohibit activities other than public hunting and fishing on lands under the forest crop law.

(6) "Forest land" means land capable of producing wood products, having a minimum width of 120 feet, not developed for uses inimical to the practice of forestry and at least 10% stocked with forest trees of any of the following size classes:

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Stand Size Classes	Tree Diameter Ranges at 4.5 Feet from Ground Level	Minimum Density
Seedlings	0"-1"	200 trees per acre
Saplings	1"-5"	100 trees per acre
Pole timber	5"-9"* , 11"***	3 cords per acre
Sawtimber	9" + * , 11"***	1,300 board feet per acre

* For conifer species ** For other species

(7) "Fractional lot" means a portion of a section in a township formed by the excess or deficiency of land in said township, as shown by the U.S. government survey plat.

(8) "Government lot" means an irregular portion of a section formed by a meandered body of water, impassable object, a state or reservation or grant boundary or for other similar reasons as shown by U.S. government survey plat.

(9) "Grazing" means the feeding on grass, herbage or other growing plants by domestic animals. Animals used during timber harvest operations are exempt.

(10) "Hunting" means shooting, shooting at, pursuing, taking, catching or killing of any wild animal or animals other than trapping.

(11) "Land" means the property which is being considered for entry under the forest crop law or woodland tax law programs.

(12) "Merchantable timber" means standing trees by species and product which are because of size and quality, salable within a reasonable time period from the subject lands.

(13) "Non-commercial forest land" means forest land incapable of producing wood products within 100 years.

(14) "Non-forest" means farmland (including grazing pastures), water, marsh, muskeg, bog, rock outcrops, sand dunes, recreational land, industrial land, residential land and rights-of-way.

(15) "Non-productive area" means lands not producing or incapable of producing wood products.

(16) "Petitioner or applicant" means any or all persons who have an ownership interest either in fee or equity with full control over forest practices on the lands.

(17) "Practice forestry", "sound forestry practices" and "sound forestry" mean sound and commonly accepted timber cutting, transporting and forest cultural methods recommended or approved by a qualified forester of the department for most effective propagation and improvement of the various timber types common to Wisconsin.

(18) "Public roads and railroad rights-of-way" means public roads or railroad rights-of-way active or abandoned, in public or railroad ownership.

(19) "Qualified forester" means a forester having a bachelor or higher degree from a school of forestry.

(20) "Quarter-quarter section" means a regular one-sixteenth part of a section, the boundaries of which are determined by a correctly executed subdivision of the section involved, as determined by U.S. government survey plat.

(21) "Renewal" means a continuation of an entry under the laws upon mutual consent of the landowner and department.

(22) "Standard units of measurement" means:

(a) Sawlogs-board feet, Scribner Decimal C log rule.

(b) Cords—piled cord, 4' × 4' × 96"-100" or 4' × 8' × 4'. Cord products of other dimensions shall be converted to standard cords.

(c) Piece products—per piece, post, pole or Christmas tree.

(d) Weight—converted to cord equivalent by species.

(23) "Stumpage" means the quantity of merchantable timber by product and species as listed in s. NR 46.09 (2).

(24) "Tree scale" means the measurement of merchantable volume of standing trees.

(25) "Wood products" or "forest products" means those items listed on the current forest crop law stumpage values for severance tax.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80.

NR 46.03 Petitions or applications. (1) A petition for entry under the forest croplands or an application for entry under the woodland tax laws shall be filed with the department at Box 7921, Madison, Wisconsin 53707 no later than April 30 of each year for consideration in the same calendar year. Eligible lands shall be entered effective January 1 of the following calendar year.

(2) A petition or application shall not be complete without an attached copy of the instrument by which the petitioner or applicant acquired title or interest in the land. Applications for reentry of expiring contracts do not require proof of ownership.

(3) All parties with an interest in the land in fee or equity shall sign and agree to the petition or application.

(4) Submission of petitions or applications shall be in the manner as directed and on forms provided by the department.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80.

NR 46.04 Requests or petitions for hearing. (1) Requests for hearing on forest croplands petitions shall include the basis or reasons for the request.

Note: Entry criteria contained in NR 46.06.

(2) Requests or petitions for hearings on the continued eligibility of lands entered under the forest croplands or woodland tax law programs shall include an allegation, with a statement of facts to support such, that the lands to which the request or petition applies are ineligible for

continuation due to its failure to comply with the criteria required by law.

Note: Continued entry criteria contained in NR 46.96 and 46.10, and ss. 77.02 and 77.16, Stats.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80.

NR 46.05 Forms. All notices, reports, plans, petitions and applications required or filed under the forest croplands or woodland tax law shall be on forms prepared and provided by the department.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80.

PART I FOREST CROPLANDS

NR 46.06 Determination on petition. (1) Lands upon which a petition has been filed shall be entered as forest croplands upon a finding by the department that:

(a) The lands considered for entry comprise an entire quarter-quarter section, fractional lot or government lot as determined by U.S. government survey plat, excluding public roads and railroad rights-of-way; and

(b) The facts give reasonable assurance that a stand of merchantable timber will be developed within a reasonable period of time; and

(c) That such lands are then being held permanently for the growing of timber under sound forestry practices rather than for other purposes; and

(d) That all persons holding encumbrances against such lands have in writing agreed to the petition.

(2) The lands are capable of supporting a stand of merchantable timber containing a minimum tree stocking as provided in s. NR 46.02 (5) and are capable of producing wood products within 100 years from the date of entry.

(3) In determining whether a petitioner is holding lands permanently for the growing of timber and other products, the department shall consider:

(a) All relevant testimony and evidence of record presented by the petitioner and others.

(b) The location of the land in relation to residential, recreational, agricultural or commercial development.

(c) Topography of the lands.

(d) Soils.

(e) Buildings or structures on the property.

(f) Roads in the vicinity of the lands.

(g) Navigable waters on or in the vicinity of the lands.

(h) The presence of surface disturbance in the form of mining or land-fill operations.

(i) Zoning.

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- (j) Past use of the lands by the petitioner.
- (k) Location of incorporated limits of cities and registered plats.
- (l) The existence of landscaping or ornamental plants, or the alteration of vegetation adjacent to or near any buildings or structures.
- (4) In determining whether the petitioner intends to hold the lands permanently and manage them under sound forestry practices, the department shall consider:
 - (a) All relevant statements, testimony and evidence of record presented by the petitioner and others.
 - (b) Knowledge or training of the petitioner regarding forestry or forestry practices.
 - (c) Forestry management plans developed by or at the request of the petitioner.
 - (d) Past forestry practices conducted by or at the direction of the petitioner.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80.

NR 46.07 Ineligible lands. (1) The following lands are ineligible for entry, continuation or renewal as forest croplands:

- (a) Lands within the incorporated limits of cities or registered plats.
- (b) A quarter-quarter section, fractional or government lot upon which is located a domicile.
- (c) Lands which contain more than 20% non-productive area taking into consideration the total contiguous proposed entry or renewal.
- (d) Lands upon which surface disturbance in the form of mining or landfill operations is present.
- (e) Lands which show the existence of landscaping or ornamental plants, or the alteration of vegetation adjacent to or near any buildings or structures.
- (f) Lands which cannot comply with the eligibility requirements contained in s. NR 46.06 except those lands presently entered under the forest cropland program containing less than an entire quarter-quarter section, fractional or government lot as determined by U.S. government survey excluding public roads and railroad rights-of-ways that are eligible for continuation.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80.

NR 46.08 Forest croplands renewals. (1) A renewal notice form shall be sent certified mail by the department to the landowner's last post office address. The landowner shall complete and return the renewal notice form to the department within 60 days of the notice date. If the landowner does not return the renewal notice within 60 days, the department shall unilaterally appoint an estimator and not renew the lands.

(2) Public hearings shall only be held upon request or petition pursuant to ss. 77.10 and 77.16 (8), Stats.

(3) The department is not required to publish or provide written notice of a renewal pursuant to s. 77.03, Stats.

(4) The renewal order shall be filed with all officers designated to receive copies of the orders of entry and the owner.

(5) The determination of estimated merchantable volume shall be at an accuracy level of 15% to 20% at 2 standard deviations for any one owner by county.

(6) Upon request by the owner, the department may provide an estimated range of termination cost based upon forest type, stand size and density classes, using available department forest cover type maps and the current severance tax schedule.

(7) Upon agreement of the department and the landowner, the department shall determine and provide the estimate pursuant to s. 77.03, Stats., at a cost to the owner of \$50 per quarter-quarter section, fractional lot or governmental lot.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80.

NR 46.09 Stumpage rates. (1) CUTTING REPORTS. (a) Wood products reported on cutting reports received by the department on or before December 1st for wood products cut prior to November 1 will be assessed on the basis of the stumpage value schedule in effect at the time of cutting.

(b) Wood products reported on cutting reports received by the department after December 1, or cut on or after November 1, will be assessed on the basis of the current stumpage value schedule.

(c) Peeled cordwood volume will be converted to volume of rough products by adding 12-½% for hand-peeled or 25% for machine-peeled wood.

(d) A reduction of 30% of the stumpage value for severance tax, as listed under sub. (2) will be made for those species salvaged as a result of catastrophic losses. Catastrophic losses are defined as severe losses caused by fire mortality, ice, snow, insects, disease, wind and flooding. In order to be eligible for this reduction, the catastrophic loss must directly involve 20 acres or more and must result in a reduction of 30% or more in stumpage value to the owner as certified by the landowner on forms provided and verified by department appraisal. The landowner or representative may be required to accompany the department field inspector.

(e) Cordwood products sold as sawbolts by the landowner or sorted and sawed as sawbolts by the landowner will be reported as sawbolts under sub. (8).

(f) Cordwood products measured by weight will be converted to and reported as rough cord products.

1. The following table of weights will be used for conversion to cords:

Species	Weight per Cord	
	Green	Seasoned
White pine	4,700	4,200
Red pine	4,700	4,400
Jack pine	4,700	4,300
Spruce	4,500	4,300
Balsam fir	5,000	4,200
Tamarack	5,200	4,400
Hemlock	5,200	4,300
Aspen	4,600	4,000
White birch	5,200	4,800
Oak, all species	5,600	5,000
Mixed hardwoods	5,300	4,900

2. Seasoned wood is that which is dried 2 or more months during the period April 1 to October 31 before weighing.

(2) STUMPAGE VALUES FOR SEVERANCE TAX. Forest crop law severance schedule zones are established as designated on the following map entitled "Forest Crop Law Severance Schedule Zones" and the rates shall be as follows:

(a) Logs (stumpage per M feet board measure)

	NC	NW	WC	LM	SD
	1	2	Zone 3	4	5
1. White pine	\$ 77.00	\$ 54.00	\$ 74.00	\$ 64.00	\$ 87.00
2. Red pine	69.00	54.00	57.00	57.00	78.00
3. Jack pine	34.00	34.00	34.00	34.00	34.00
4. Spruce	34.00	34.00	34.00	34.00	34.00
5. Tamarack	27.00	27.00	27.00	27.00	27.00
6. Cedar	27.00	27.00	27.00	27.00	27.00
7. Hemlock	27.00	27.00	27.00	27.00	27.00
8. Aspen	26.00	20.00	31.00	31.00	28.00
9. Hard maple	81.00	46.00	68.00	84.00	88.00
10. Soft maple	38.00	38.00	38.00	38.00	38.00
11. Yellow birch	66.00	66.00	66.00	66.00	66.00
12. White birch	46.00	46.00	46.00	46.00	46.00
13. Basswood	61.00	38.00	49.00	63.00	63.00
14. Elm	53.00	41.00	48.00	58.00	66.00
15. Red oak	66.00	62.00	95.00	104.00	124.00
16. White oak	62.00	62.00	62.00	62.00	62.00
17. Other oak	48.00	48.00	48.00	48.00	48.00
18. Ash	34.00	34.00	34.00	34.00	34.00
19. Black walnut	760.00	760.00	760.00	760.00	760.00
20. Other species	50.00	50.00	50.00	50.00	50.00

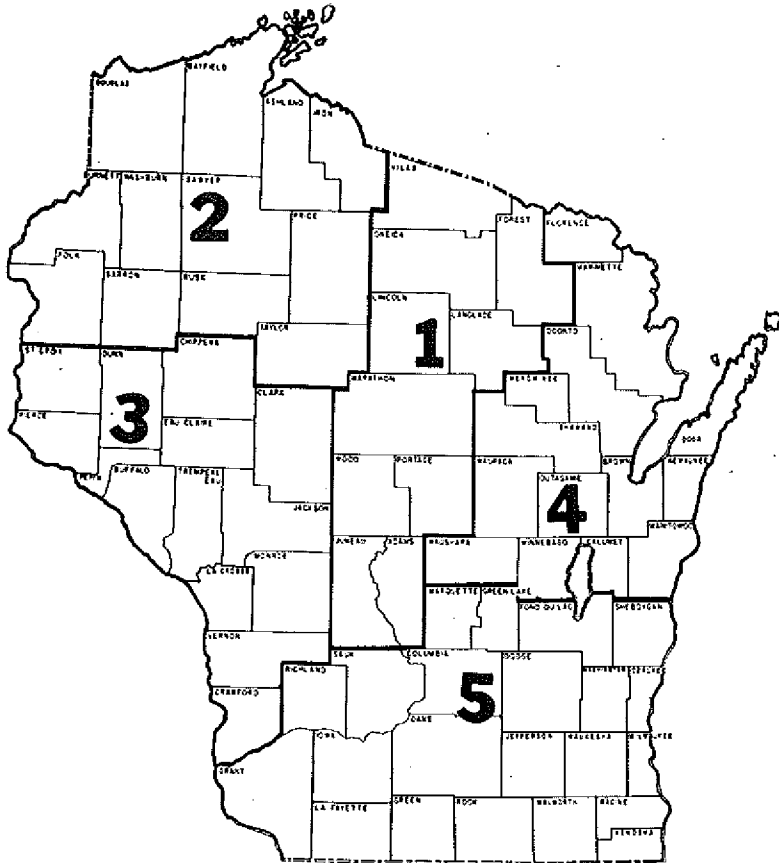
(b) Cord products—rough volume (unpeeled). (Stumpage value per piled cord, 4' x 4' x 96"-100" or 4' x 8' x 4')

	NC	NW	WC	LM	SD
	1	2	Zone 3	4	5
1. White pine	\$ 8.60	\$ 6.60	\$ 7.40	\$ 9.40	\$ 9.00
2. Red pine	14.50	13.00	13.80	16.00	10.90
3. Jack pine	15.30	16.20	18.70	17.80	12.80
4. Spruce	10.00	7.10	7.10	10.40	7.10
5. Balsam fir	5.30	4.50	3.70	6.90	4.00
6. Tamarack	5.50	5.50	5.50	5.50	5.50
7. Cedar	4.60	4.60	4.60	4.60	4.60
8. Hemlock	6.80	6.80	6.80	6.80	6.80
9. Aspen	5.80	3.60	3.80	7.50	3.80
10. White birch	4.60	2.60	3.50	5.20	3.30
11. Oak	3.30	2.40	3.70	4.70	3.20
12. Mixed hardwoods	4.10	2.50	3.40	4.30	4.70
13. Firewood	4.10	2.50	3.40	4.30	4.70
14. Sawbolts					
a. Jack pine, spruce, hemlock, cedar, tamarack, aspen	16.00	16.00	16.00	16.00	16.00
b. All other species	24.00	24.00	24.00	24.00	24.00

(c) Piece products (stumpage value per piece)

	Zone				
	1	2	3	4	5
<u>Posts and poles</u>					
1. 7 and 8 ft.	\$.09	\$.09	\$.09	\$.09	\$.09
2. 10 and 12 ft.	.18	.18	.18	.18	.18
3. 14 and 16 ft.	.35	.35	.35	.35	.35
4. 18 and 20 ft.	.88	.88	.88	.88	.88
5. 25 ft.	1.75	1.75	1.75	1.75	1.75
6. 30 ft. and over	2.65	2.65	2.65	2.65	2.65
<u>Christmas trees</u>					
7. Black spruce	1.00	1.00	1.00	1.00	1.00
8. All other species	2.00	2.00	2.00	2.00	2.00

(d) Map of forest crop law severance schedule zones.



History: Cr. Register, January, 1980, No. 289, eff. 2-1-80; r. and recr. (2), Register, October, 1980, No. 298, eff. 11-1-80; r. and recr. (2) (a) to (c), Register, October, 1981, No. 310, eff. 11-1-81.

PART II WOODLAND TAX LAW

NR 46.10 Determination on application. (1) Lands upon which an application has been filed shall be entered as woodland tax lands upon a finding by the department that:

(a) The lands considered for entry contain 10 or more contiguous acres;

(b) The lands do not include an entire quarter-quarter section, fractional lot or government lot as determined by U.S. government survey plat, excluding public roads and railroad rights-of-way, which would be eligible for entry under the forest croplands law.

(c) The facts give reasonable assurance that the woodland is suitable for the growing of timber.

(d) The lands are not more useful for other purposes including, but not limited to commercial, residential, recreational or landscaping.

(e) The applicant agrees to follow a management plan, approved by the department and prepared by a qualified forester representing the applicant or the department consisting of the following:

1. The name (s) and address (es) of the applicant (s).
2. The legal description of the lands.
3. An appropriate map (s) or aerial photographs of the land on which cover types are identified by conventional map symbols indicating species, size and density of vegetation.
4. A schedule by year of the required forest management practices to be carried out during the contract period which are as follows:
 - a. Harvesting of mature timber according to sound forestry practices.
 - b. Thinning of plantations and natural stands for merchantable products according to sound forestry practices.
 - c. The release of pine from competing vegetation.
 - d. The reforestation of open and understocked areas.
 - e. Post-harvest treatment where necessary to insure adequate regeneration.
5. Management practices which are desirable and may be carried out during the contract period at the owner's option.
6. Signatures of the landowner (s) (and the qualified forester representing the landowner if appropriate) and the inspecting department forester.

(f) The lands are not within recorded plats or the incorporated limits of cities or villages.

(g) The land does not have an improvement having an assessed value situated thereon.

(h) No more than 20% of the total contiguous proposed entry or renewal may consist of nonproductive areas.

(2) In determining whether the facts give reasonable assurance that the woodland is suitable for the growing of timber and other forest products, the department shall consider the following:

(a) Compliance with the tree stocking standards as provided in s. NR 46.02 (6).

(b) Past and present timber production on the subject property.

(c) Soils.

(3) In determining whether the lands are not more useful for other purposes, the department shall consider the following:

(a) The location of the land in relation to commercial, recreational, residential, and agricultural development.

(b) The presence of surface disturbance in the form of mining or land-fill operations.

(c) Navigable waters on or in the vicinity of the lands.

(d) Zoning and land use planning.

(e) Roads in the vicinity of the lands.

(f) Past and present use of the lands.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80; cr. (1) (h), Register, October, 1981, No. 310, eff. 11-1-81.

NR 46.11 Declassification is necessary to add acreage to an entry. A declassification penalty may not apply provided reapplication by the owner and approval for entry by the department is made concurrent with declassification. Areas of greater than 3 acres but less than 10 acres, if contiguous to an existing entry and meeting all other requirements for entry, may be added to such entry.

History: Cr. Register, October, 1981, No. 310, eff. 11-1-81.

NR 46.12 Severability. Should any section or portion of this chapter be declared invalid or unconstitutional for any reason, the remainder of the chapter shall not be affected thereby.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80; renum. from NR 46.11, Register, October, 1981, No. 310, eff. 11-1-81.