

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
RENUMBERING, AMENDING, REPEALING AND RECREATING AND CREATING RULES

The Wisconsin Natural Resources Board proposes an order to renumber NR 46.30 (1) (a) to (e); to amend NR 46.15 (25), 46.16 (5) and 46.30(1)(e); to repeal and recreate NR 46.30 (2) (a) to (d); and to create NR 46.16 (1) (e), 46.23 (5) and 46.30 (1) (a) and (f) relating to the administration of the Forest Crop Law and the Managed Forest Law

FR-13-07

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. Sections 77.82 (2m) and (4), and 77.88 (2) (d) 2., Stats., provides for the department to adjust application fees and the portion of the transfer fees credited to the appropriation under s. 20.370 (1) (cr), Stats., to be equal to the average expense to the department for recording an order under subch. VI Ch. 77, Stats.

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 and recreates s. NR 46.30(2)(a) to (d) to revise annual stumpage values used to calculate severance and yield taxes due on timber cut during the period from November 1, 2007 through October 31, 2008. Thirteen separate zones reflect varying stumpage values for different species and products across the state.

The rates initially proposed showed an average increase for sawtimber (0.32%) and pulpwood (1.52%) rates when compared to the current years rates. These rates were adjusted based on comments received during the public hearing and the comments period. The main concern expressed is a recent drop in the markets. Fifty-five percent (242) of the 440 sawtimber and pulpwood rates were lowered. As a result of the changes the rates being proposed show an average decrease when compared to the current year's rates instead of an increase. The average change for sawtimber is a 5% decrease the average change for pulpwood is a 10% decrease across the board for all species.

Amendments to catastrophic loss provisions in NR 46.30 (1): When timber is harvested as a result of a qualifying catastrophic loss the value of the timber used to calculate the yield or severance tax is reduced by 30%. The proposed changes include reducing the minimum acreage requirement from 10 contiguous acres to 5 contiguous acres and increasing the reduction in the stumpage value for catastrophic losses caused by fire mortality from 30% to 70%. These changes were selected from options developed by the Catastrophic Loss Working Group.

Amending petition requirements and application/transfer fees (implementation of 2005 Wis.

Act 299): Previously the law required that the land designated as managed forest law be at least 10 contiguous acres under the same ownership in the same municipality. One order per ownership and municipality was issued and recorded in the county. Act 299 changed the requirement to be 10 contiguous acres under the same ownership. The proposed change is to require one petition and plan per ownership, and to issue one order per ownership. The order may have multiple municipalities and counties. If there are multiple counties on the order it will have to be recorded in each county. Statute provides that the application fee can be adjusted by rule to cover the average recording costs for an order. Since orders with multiple counties will need to be recorded in each county the proposal is to

change the application fee to \$20 per county to cover the recording cost in each county. The entire application fee is credited to the appropriation for recording fees.

Statute also provides that the amount of each transfer fee credited to the recording fee appropriation may be amended by rule. Under the changes made in Act 299 a transfer for an order with land in multiple counties will need to be recorded in each county on the order. The proposed changes include modifying the amount of each transfer fee credited to the recording fee appropriation to \$20 per county included on the transfer order not to exceed the \$100 transfer fee.

Comparison of Federal Regulations: There are no known federal rules which apply to stumpage rates.

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 decrease in revenue cost associated with 5% yield tax on MFL and the 10% severance tax on FCL based on the average decrease in stumpage rates proposed for both pulpwood (10% decrease) and saw timber (5% decrease). Actual cost could be an increase or decrease depending on the specific species, product and zone. There is an anticipated decrease for those that have catastrophic losses that qualify under the proposed changes.

For landowners applying to enroll land under MFL. There is an anticipated decrease in cost for applications fees and plan fees when land under the same ownership in different municipalities is combined under one petition and one MFL management plan.

Summary of Factual Data and Analytical Methodologies: Stumpage rate data is collected from Department Foresters and Cooperating Foresters annually. This data along with data collected from public land timber sales is used to calculate a three year weighted average for each species and product by zone.

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

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

The initial stumpages rates calculated using *combined public and private timber sale data* were compared to stumpage rates calculated using *private only timber sale data*. Of the 440 saw timber and pulpwood rates calculated 197 are the same for both calculations, 151 rates were higher when using the *combined public and private timber sale data*, and 91 were higher when using only the *private only timber sale data*. The average change in rates from the *combined data* rates compared to the *private data* rates was relatively insignificant. The average change in saw timber rates was a 0.32% increase from the *combined data* rates compared to a 0.02% increase from the *private data* rates. The average change in pulpwood rates was a 1.53% increase from the *combined data* rates compared to a 1.41% increase from the *private data* rates.

Adjustments were made to the initial rates based on public comments during the review period including switching from the *3 year weighted average of combined public and private timber sale data* to a *3 year*

weighted average of private only timber sale data.

Historical data on severance and yield tax invoices including catastrophic loss awards and managed forest land ownership patterns were reviewed to determine trends and anticipated impacts.

Analysis to Determine Effect on Small Business: A review of the law shows the impact on small business. Actual impact is dependant what 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) who 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 the sound forest management practices which must be completed during the order period to ensure and maintain a healthy stand of timber.

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SECTION 1. NR 46.15 (25) is amended to read:

NR 46.15 (25) "Parcel" means for the purpose of determining eligibility for designation as managed forest land under s. 77.82, Stats., the acreage of contiguous land described in the petition which is under the same ownership ~~in the same municipality.~~

SECTION 2. NR 46.16 (1) (e) created to read:

NR 46.16(1)(e) *Application fee.* Each petition submitted to the department for a new designation or a conversion of forest cropland to managed forest land shall include a nonrefundable application fee of \$20.00 per county in which the land that is the subject of the petition is located.

Note: This subsection interprets and administers ss. 77.82 (2m) and (4), Stats., relating to application fees.

SECTION 3. NR 46.16 (5) is amended to read:

NR 46.16 (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.

SECTION 4. NR 46.23 (5) is created to read:

NR 46.23 (5) TRANSFER FEE. Twenty dollars for each county included on the petition to transfer shall be credited to the appropriation under s. 20.370 (1)(cr), Stats., from the transfer fee collected under s. 77.88 (2)(d), Stats. The amount credited may not exceed the transfer fee collected.

SECTION 5. NR 46.30 (1) (a), (b), (c), (d) and (e) are renumbered to NR 46.30 (1) (b), (c), (d), (e) and (g) and NR 46.30 (1) (e) as renumbered is amended to read:

NR 46.30 (1) (e) ~~Except as provided in par. (f) a~~ A reduction of 30% of the stumpage value for severance and yield tax, as listed under sub. (2) ~~will~~ shall be made for those species salvaged as a result of catastrophic ~~losses~~ loss. ~~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 30% of the merchantable timber on ~~40~~ 5 contiguous acres or more and must result in a reduction of 30% or more in stumpage value to the owner as certified by the ~~landowner~~ owner on forms provided and verified by department appraisal. The ~~landowner~~ owner or representative may be required to accompany the department field inspector in the determination of eligibility for catastrophic reduction.

SECTION 6. NR 46.30 (1) (a) is created to read:

NR 46.30 (1)(a) Definition. For terms used in this subsection, "Catastrophic loss" means severe loss caused by fire mortality, ice, snow, insects, disease, wind or flooding.

SECTION 7. NR 46.30 (1) (f) is created to read:

NR 46.30 (1)(f) A reduction of 70% of the stumpage value for severance and yield tax, as listed under sub. (2) shall be made for those species salvaged as a result of catastrophic loss caused by fire mortality. In order to be eligible for this reduction, the catastrophic loss must directly involve 30% of the merchantable timber on 5 contiguous acres or more and must result in a reduction of 30% or more in stumpage value to the owner as certified by the owner on forms provided and verified by department appraisal. The owner or representative may be required to accompany the department field inspector in the determination of eligibility for catastrophic reduction.

Section 8. NR 46.30 (2) (a) to (d) are repealed and recreated to read:

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

2008 Rates - Effective Nov. 1, 2007

	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
Cedar	80.00	125.00	48.00	80.00	60.00	61.00	80.00	80.00	NA	80.00	80.00	80.00	80.00
Fir	NA	50.00	50.00	94.00	NA	NA	90.00	NA	NA	92.00	110.00	100.00	100.00
Hemlock	NA	40.00	70.00	73.00	NA	NA	70.00	NA	NA	120.00	100.00	57.00	57.00
Pine													
Jack	72.00	72.00	72.00	72.00	141.00	72.00	100.00	45.00	62.00	78.00	70.00	60.00	70.00
Red	62.00	108.00	90.00	142.00	100.00	59.00	150.00	132.00	112.00	115.00	116.00	73.00	113.00
White	85.00	101.00	100.00	154.00	103.00	85.00	150.00	152.00	133.00	122.00	100.00	79.00	172.00
Spruce	90.00	118.00	70.00	93.00	78.00	80.00	81.00	80.00	62.00	60.00	80.00	67.00	80.00
Tamarack	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00	50.00
Aspen	74.00	70.00	65.00	115.00	53.00	69.00	68.00	59.00	69.00	75.00	54.00	45.00	63.00
Ash	90.00	160.00	126.00	125.00	130.00	149.00	150.00	148.00	171.00	124.00	95.00	113.00	125.00
Basswood	108.00	103.00	137.00	160.00	91.00	125.00	156.00	176.00	150.00	124.00	108.00	102.00	102.00
Birch													
White	110.00	108.00	128.00	149.00	53.00	66.00	150.00	100.00	105.00	141.00	53.00	90.00	75.00
Yellow	200.00	275.00	208.00	200.00	229.00	229.00	220.00	177.00	252.00	221.00	120.00	69.00	69.00
Elm	40.00	73.00	99.00	143.00	102.00	75.00	150.00	125.00	63.00	89.00	75.00	75.00	85.00
Maple													
Sugar	370.00	425.00	331.00	400.00	360.00	488.00	350.00	378.00	400.00	300.00	280.00	302.00	100.00
Other	140.00	280.00	124.00	198.00	125.00	179.00	228.00	183.00	183.00	128.00	130.00	153.00	145.00
Oak													
Red	370.00	400.00	300.00	360.00	320.00	360.00	300.00	375.00	390.00	269.00	305.00	301.00	310.00
White	174.00	202.00	114.00	150.00	174.00	227.00	133.00	166.00	208.00	112.00	117.00	110.00	174.00
Other	154.00	225.00	120.00	149.00	139.00	160.00	178.00	119.00	183.00	90.00	120.00	166.00	115.00
Other Hardwood	160.00	108.00	155.00	154.00	126.00	160.00	166.00	108.00	188.00	130.00	133.00	104.00	115.00
Black Walnut	523.00	NA	NA	NA	NA	1369.00	NA	NA	1295.00	NA	400.00	523.00	950.00
Cherry	400.00	NA	240.00	450.00	430.00	683.00	350.00	413.00	750.00	432.00	390.00	282.00	575.00

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.

2008 Rates - Effective Nov. 1, 2007

	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
Cedar	10.00	7.00	30.00	10.00	10.00	10.00	10.00	10.00	NA	5.00	10.00	10.00	10.00
Fir	NA	7.00	19.00	16.00	NA	NA	16.00	20.00	NA	18.00	16.00	20.00	15.00
Hemlock	NA	15.00	14.00	9.00	NA	NA	16.00	8.00	NA	10.00	13.00	13.00	13.00
Pine													
Jack	30.00	28.00	40.00	32.00	32.00	18.00	34.00	34.00	25.00	37.00	27.00	33.00	33.00
Red	29.00	22.00	30.00	35.00	35.00	22.00	39.00	36.00	27.00	43.00	39.00	30.00	35.00
White	19.00	14.00	25.00	22.00	26.00	15.00	17.00	29.00	17.00	15.00	19.00	17.00	23.00
Spruce	20.00	24.00	30.00	29.00	31.00	15.00	31.00	30.00	22.00	28.00	27.00	25.00	20.00
Tamarack	27.00	21.00	21.00	14.00	10.00	13.00	11.00	28.00	19.00	20.00	22.00	28.00	15.00
Aspen	10.00	16.00	32.00	20.00	17.00	10.00	24.00	23.00	12.00	25.00	22.00	27.00	18.00
Birch	22.00	12.00	28.00	24.00	20.00	10.00	24.00	17.00	10.00	24.00	22.00	18.00	11.00
Basswood	7.00	7.00	11.00	8.00	8.00	5.00	8.00	4.00	5.00	8.00	7.00	7.00	8.00
Oak	10.00	15.00	19.00	11.00	14.00	5.00	16.00	17.00	10.00	12.00	16.00	10.00	15.00
Other Hardwood	12.00	15.00	29.00	23.00	17.00	5.00	24.00	26.00	12.00	23.00	20.00	18.00	23.00
Fuelwood	10.00	11.00	15.00	10.00	7.00	5.00	15.00	12.00	10.00	9.00	6.00	5.00	5.00

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) Mixed products (stumpage value per cord). Only for use with red pine, white pine and spruce. Not to be used in combination with other product codes.

2008 Rates - Effective Nov. 1, 2007

	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	28.00	58.00	41.00	60.00	36.00	48.00	56.00	37.00	63.00	48.00	40.00	44.00
White	25.00	24.00	40.00	45.00	36.00	15.00	22.00	34.00	20.00	25.00	26.00	22.00	38.00
Spruce	31.00	31.00	39.00	34.00	42.00	15.00	39.00	35.00	26.00	35.00	29.00	34.00	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)(d) Piece products (stumpage value per piece).

2008 Rates - Effective Nov. 1, 2007

	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	0.50	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	1.80	2.30	2.10	2.30	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	3.83	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	10.90	10.00	8.90	8.90
31 and 40 ft.	17.40	15.40	13.20	20.00	16.00	17.40	20.00	19.10	17.40	20.00	17.30	15.30	15.40
41 and 50 ft.	26.00	23.00	19.70	25.00	24.00	26.00	25.00	28.50	26.00	28.20	25.90	22.90	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	6.70	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 9. 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 10. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on June 27, 2007.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)