

Clearinghouse Rule 06-027

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

The Wisconsin Natural Resources Board proposes an order to renumber NR 46.30 (2) (d), to amend NR 46.18 (2) (c) and (e), and NR 46.30 (1) (e) 1., and to repeal and recreate NR 46.30 (2) (a) to (c) relating to the administration of the Forest Crop Law Managed Forest Law

FR-07-06

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. Interpretation of management plan requirements under s. 77.82 (3) (c), 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 (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. Thirteen separate zones reflect varying stumpage values for different species and products across the state. The average change for sawtimber is a 7% increase compared to current sawtimber rates and the average change for pulpwood is a 20% increase compared to current pulpwood rates.

New stumpage rates for mixed products for red pine, white pine and spruce: Rates for mixed (co-mingled) products have been added to reflect the manner in which some red pine, white pine and spruce is being sold. More and more the pulpwood and sawtimber of these three species are being sold co-mingled or mixed with one rate per cord assessed in stead of being sold separately. As expected the rate is higher than for pulpwood alone. Currently there is no mixed product stumpage rate and the rates 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 stumpage rates established in NR46.30. 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.

Weight conversion factor for red pine (green) adjusted to 4500 lbs/cord: 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 NR46.30 (1) for MFL and FCL lands. The analysis showed that current data and opinion on the weight conversion ranges from 4,300 to 5,200 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 and the recommendation was made to revise the red pine weight conversion factor in NR46. (1), to match the public lands factor to decrease confusion and eliminate the discrepancy.

Modification of mandatory practices: 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

should be modified to include release of hardwoods from competition 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, 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 (e) states “post harvest treatment to insure adequate regeneration”. This should be 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.

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: Anticipated costs to the private sector may include the cost to carry out the release of hardwoods or carry out a pre-harvest treatment to insure adequate regeneration. Both practices are eligible for up to 50% cost sharing through the Wisconsin Forest Landowner Grant Program. In most cases the cost for the pre-harvest treatment would have been a cost as a post-harvest treatment so the net effect may in fact be zero and it would be incurred at the time a timber sale (revenue generator) is planned.

There is an anticipated increase in cost associated with 5% yield tax on MFL and the 10% severance tax on FCL based on the average increase in stumpage rates proposed for both pulpwood and sawtimber. Actual cost could be an increase decrease depending on the specific species, product and zone.

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 averaged 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.

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 agrees to practice sound forest management which may include completing release of conifers and hardwoods from competing vegetation or pre-harvest/pos-harvest treatment to insure adequate regeneration. Practices prescribed for the land are aimed at ensuring and maintaining a healthy stand of timber.

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Comments are to be submitted by April 25, 2006 to:

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

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: adminrules.wisconsin.gov.

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

NR 46.18 (2) (c) Release of conifers and hardwoods from competing vegetation.

SECTION 2. NR 46.18 (2) (e) is amended to read:

NR 46.18 (2) (e) Post-harvest and pre-harvest treatment to insure adequate regeneration.

SECTION 3. NR 46.30 (1) (e) 1. is amended to read

NR 46.30 (1) (e) 1. The following table of weights will be used for conversion to cords:

<u>Species</u>	<u>Weight per Cord</u>	
	<u>Green</u>	<u>Seasoned</u>
Cedar	3,150	3,050
Balsam Fir	4,250	4,050
Hemlock	4,800	4,650
Jack Pine	4,250	4,100
Red Pine	4,700 4,500	4,400
White Pine	4,200	4,000
Spruce	4,000	3,820
Tamarack	4,650	4,450
Aspen	4,500	4,300
White Birch	4,800	4,600
Yellow Birch	5,350	5,150
Basswood	3,850	3,650
Red Oak	5,500	5,350
White Oak	5,850	5,650
Mixed Hardwood	5,300	4,900

SECTION 4. NR 46.30 (2) (d) is renumbered to NR 46.30 (2) (e).

SECTION 5. NR 46.30 (2) (a) to (c) are repealed and recreated to read:

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 _____
Scott Hassett, Secretary

(SEAL)