

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Note: Chapter NR 46 as it existed on January 31, 1980 was repealed and a new chapter NR 46 was created effective February 1, 1980.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. For the terms used in subch. I, the following definitions apply:

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- (2) "Commercial forest land" means forest land capable of producing wood products within 100 years and not withdrawn from timber production.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

| 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.

(15m) "Open areas" means nonproductive areas capable of producing merchantable timber when stocked with suitable forest trees.

(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) 1. "Sawlogs-board feet" means forest products that have the following minimum specifications:

| | |
|---|---|
| Position in tree | Butt or upper |
| Minimum diameter*, small end—Hardwoods | 10.6 |
| Minimum diameter*, small end—Conifers | 9.6 |
| Minimum length, without trim** | 8 (except walnut and cherry, which are 4) |
| Sweep allowance*** | 1/2 of diameter small end for each 8 length |
| Maximum scale deduction for unsound defects | 50% |
| Clear cuttings free of knots or other defects | No requirements. |
| Sound or unsound surface defect limitations | Diameter of knots, holes, rot, etc., may not exceed 1/3 diameter of log at point of occurrence. |
| Sound end defects | No requirements |

*Diameter inside bark

**The maximum trim allowance is 8". Cut products that exceed the 8 trim allowance will be classified as misbucked and will be scaled as sawlogs at the next whole foot increment.

***Sweep is defined as the maximum departure distance of a line drawn between the ends of a log from the nearest surface of the log.

2. The required scaling method for sawlogs shall be according to the Scribner Decimal C log rule.

(b) "Cord" means 128 cubic feet including wood, air and bark assuming careful piling. Forest products described as cords are further defined to include all cut products not meeting the minimum specifications in par. (a) for sawlogs and which are not listed as piece products in par. (c).

(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 46.30.

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

(24m) "Understocked areas" means forest lands not meeting the minimum medium density classification (source, DNR Manual Code 8625.2) described in the following size classes:

| Stand Size Classes | Tree Diameter Ranges at 4.5 Feet From Ground Level | Minimum Medium Density |
|--------------------|--|---------------------------------|
| Seedlings | 0"-1" | 800 trees per acre ¹ |
| Saplings | 1"-5" | 400 trees per acre ² |
| Pole timber | 5"-9"* , 11"*** | 7 cords per acre |
| Sawtimber | 9"+* , 11"+** | 3,000 board feet per acre |

*For conifer species

**For other species

¹ Applies to natural stands. Planted stands with uniform spacing qualify as medium density with 400 trees per acre.

² Applies to natural stands. Planted stands with uniform spacing qualify as medium density with 300 trees per acre.

Note: DNR Manual Code is available for inspection at any DNR office.

(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; cr. (15m) and (24m), Register, October, 1983, No. 334, eff. 11-1-83; cr. (intro.) and am. (23), Register, October, 1986, No. 370, eff. 11-1-86; r. and recr. (22) (a) and (b), Register, October, 1991, No. 430, eff. 11-1-91; CR 10-031: am. (24m) Register October 2010 No. 658, eff. 11-1-10; correction in (intro.) made under s. 13.92 (4) (b) 7., stats. Register December 2011 No. 672.

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 s. 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 s. NR 46.06 and s. 77.02, 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.

Subchapter 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 landfill operations.
- (i) Zoning.
- (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, if entered, continued or renewed, would result in the petitioner or owner having contiguous forest croplands of which the total non-productive area exceeds 20%.
- (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; am. (1) (c), Register, October, 1985, No. 358, eff. 11-1-85.

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 s. 77.10, 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) If calculated by the department, the determination of the termination tax under s. 77.03, Stats., shall be based on merchantable timber volume estimated from department forest cover type maps indicating timber size and density classes or from aerial photographic interpretation and values established by the current stumpage value schedule in s. NR 46.30.

(6) If the estimate of merchantable volume of timber for the purpose of calculating the termination tax under s. 77.03, Stats.,

is made by an estimator other than the department, the cruise shall be established by on site sampling at an accuracy level of $\pm 15\%$ to $\pm 20\%$ at 2 standard deviations for any one owner in a single municipality. The cost of such an estimate shall be paid entirely by the landowner unless the cruise is ordered by a judge of the circuit court of the district in which the lands lie, in which case the cost shall be paid jointly by the department and the landowner.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80; r. and recr. (5) and (6), Register, October, 1991, No. 430, eff. 11-1-91; correction in (2) made under s. 13.92 (4) (b) 7., stats., Register June 2015 No. 714.

NR 46.09 Forest croplands withdrawals. A completed declaration of withdrawal on a department form shall be filed with the department. Requests received by the department no later than October 1 on department forms will be eligible to be effective the following January 1. Forms received by the department after October 1 and before the end of the year shall be effective January 1 of the second year beginning after the year in which the form is received. Delays in processing created by local governments or the department of revenue, or failure to pay the withdrawal penalty on a timely basis may mean a delay in the effective date of the withdrawal.

Note: Forms for withdrawal must be filed by the deadline at: Bureau of Forestry, Forest Tax Section, PO Box 7963, Madison, WI 53707. Forms may be obtained at no charge by writing the same address.

History: Cr. Register, October, 2000, No. 538, eff. 11-1-00.

Subchapter III — Managed Forest Land

NR 46.15 Definitions. For terms used in this subchapter, the following definitions apply:

(1) "Applicant" means any person who has an ownership interest either in fee or equity or established by statute.

(1m) "Building" means a permanent structure having a roof supported by posts, columns or walls.

(2) "Capable of producing 20 cubic feet of merchantable timber per acre per year" means land determined capable of such production according to normal yield tables published by the North Central Forest Experiment Station and the Lake States Forest Experiment Station and meeting one of the following size and minimum density classifications:

| 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 |
| Poletimber | 5"-9"*-11"*** | 3 cords per acre |
| Sawtimber | 9"+*, 11"*** | 1,300 board feet per acre |

*For conifer species

***For other species

Note: Copies of normal yield tables are available for review at the Department of Natural Resources, 101 South Webster St., Box 7921, Madison, WI 53707.

(2m) "Certified plan writer" means a person certified by the department under s. NR 46.165.

(3) "Commercial logging operation" means the cutting of forest products in accordance with the department approved management plan, under a written contract or by employees of the owner, during a specified time period.

(3m) "Consideration" means a benefit to the promisor or a detriment to the promisee, including the receipt of cash, goods, or in-kind services. Consideration does not include payments received from a governmental body or non-profit organization where the purpose of the payment is to provide public access for a recreational activity.

Note: This definition clarifies the legislative intent of 2007 Wisconsin Act 20 which prohibits receiving consideration for recreation on MFL land. The definition of "consideration" is not meant to prohibit landowners, neighbors, and friends from assisting each other in property management activities, such as clearing and main-

taining fences, watching each other's properties, or sharing land management activities (such as conducting timber stand and wildlife habitat improvement projects where several parties could collectively supply the proper equipment). The definition of "consideration" is also not meant to prohibit hunters and other recreational users from thanking landowners for recreating on their lands or providing a gift for the use of the land, as long as the gift is reasonable and given freely. DNR encourages friendly hunter-landowner relationships. The definition of "consideration" is meant to prevent landowners from requiring cash, goods, and services from recreational users as a condition for using lands under the MFL program for recreational uses. In other words, landowners are prohibited from requiring that a recreational user pay cash (for example pay a lease on non-MFL lands, a hunting lodge or cabin, vehicle parking space, or making a donation to a charity or fund raiser), provide a material good (for example an ATV, culvert, gravel, television, or any other household or non-household item), or provide a service (for example shingle and put siding on a house, build a wildlife pond, restore an antique automobile, bail hay or harvest grain, etc.) as a condition for permitting recreation on their MFL land.

(4) "Contiguous" means in actual contact with or touching at some point.

(5) "Correction order" means an order of the department to correct a previously issued managed forest land order.

(6) "Cover type" means vegetation of a predominant species or group of species, or, if timber, by predominant species or group of species, size and density, which is an area 2 acres or more in size.

(7) "Department" means the department of natural resources.

(8) "Developed for commercial recreation" means the alteration of the land or its features or the addition of improvements which impede, interfere with or prevent the practice of forestry.

(9) "Developed for human residence" means land that contains a building for habitation that is constructed or used as a domicile or that has a minimum of 5 of the following 8 characteristics:

(a) 800 sq. ft. or more in total area, using exterior dimensions of living space, including each level and not including porches, decks or uninsulated screen porches.

(b) Indoor plumbing including water and sewer, piped to either municipal or septic system.

(c) Central heating or cooling, including electric heat, a furnace or heat with a circulation system.

(d) Full or partial basement, excluding crawl spaces and frost walls.

(e) Electrical service by connection to the lines of a power company.

(f) Attached or separate garage, not to include buildings for vehicles used primarily for work or recreation on the property.

(g) Telephone service based locally.

(h) Insulated using common insulation products.

Note: "Developed for human residence" is not meant to include storage or workshop buildings. If there is living space as part of such buildings, the living space will be compared against the 8 characteristics.

(10) "Developed for industry" means the alteration or use of the land for the purpose of conducting trade, production or manufacturing activities other than forest products production.

(11) "Developed for use incompatible with the practice of forestry" means the alteration or use of the land for any purpose which impedes, interferes with or prevents the practice of forestry.

Note: This definition does not prevent activities authorized in a department approved management plan.

(12) "Domicile" means a place of permanent residence evidenced by voting, personal income tax or driver's license records.

(13) "Encumbrance" has the meaning specified in s. 409.102 (1) (hs), Stats.

(14) "Farmland" means former agricultural land lying idle and presently not producing 20 cubic feet of merchantable timber per acre per year.

Note: Active agricultural land is not eligible for entry as it is an incompatible use.

(15) "Fishing" has the meaning specified in s. 29.001 (27), Stats.

(16) "Grazing" means the feeding on living plants by domestic animals except animals used during timber cutting operations.

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

(18) "Incompatible with existing uses of the land" means land which is within a recorded plat, whether as a subdivision defined under s. 236.02 (12), Stats., or other division of land recorded pursuant to s. 236.03 (1), Stats.

(18m) "Independent certified plan writer" means a certified plan writer not acting under contract with the department.

(19) "Legal description" means the location of land as determined by U.S. government survey plat by township, range, section and quarter quarter section, fractional lot or government lot.

(20) "Managed forest land" means land designated as such under the forest tax program established in ss. 77.80 to 77.91, Stats.

(20m) "Management plan" or "plan" means a plan that meets the requirements in s. NR 46.18.

(21) "Municipality" means a town, village or city.

(22) "Non-stocked land" means land capable of producing 20 cubic feet of merchantable timber per acre per year but not adequately stocked with appropriate forest trees meeting one of the size and minimum density classifications established in sub. (2) at the time of designation.

(23) "Owner" or "ownership" means one with an interest in the land in fee or in equity, including that of a grantee of a land contract prior to satisfaction of all conditions of the contract, a trust or similar entity, or as established by statute.

(24) "Owner's dwelling" means the landowner's domicile.

(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 application which is under the same ownership.

(26m) "Qualified forester" for the purposes of this subchapter, means any person meeting either the definition of "department forester" in s. NR 1.21 (2) (d) or "forester" in s. NR 1.21 (2) (e).

(28) "Same ownership" means an ownership interest in land in fee or equity by the same person or in joint or co-ownership, whether owned by one owner "and" another or one owner "or" another, as indicated on the instrument of title.

(29) "Sound forestry practices" means timber cutting, transporting and forest cultural methods recommended or approved by the department for the effective propagation and improvement of the various timber types common to Wisconsin. "Sound forestry practices" also may include, where consistent with landowner objectives and approved by the department, the management of forest resources other than trees including wildlife habitat, watersheds, aesthetics and endangered and threatened plant and animal species.

(30) "Standard units of measurement" has the meaning established in s. NR 46.02 (22).

(31) "Stumpage" has the meaning established in s. NR 46.02 (23).

(32) "Tree scale" has the meaning established in s. NR 46.02 (24).

(33) "Wood products" or "forest products" means those items listed on the current schedule of stumpage values for severance or yield tax in s. NR 46.30.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86; r. and recr. (8), Register, October, 1992, No. 442, eff. 11-1-92; r. (25) (a), renun. (intro.) and (b) and am., Register, October, 1994, No. 466, eff. 11-1-94; r. and recr. (9), Register, December, 1998, No. 516, eff. 1-2-99; correction in (15) made under s. 13.93 (2m)

(b) 7., Stats., Register, December, 1998, No. 516; correction in (13) made under s. 13.93 (2m) (b) 7., Stats.; CR 03-034: cr. (26m) Register October 2003 No. 574, eff. 11-1-03; CR 04-136: cr. (2m) and (20m), am. (21), r. (27) Register July 2005 No. 595, eff. 8-1-05; emerg. cr. (18m) and (20s), eff. 10-4-05; CR 05-087: cr. (18m) and (20s) Register May 2006 No. 605, eff. 6-1-06; CR 07-024: am. (25), Register October 2007 No. 622, eff. 11-1-07; CR 08-023b: cr. (3m), am. (23) Register February 2010 No. 650, eff. 3-1-10; CR 11-013: renum. (1) to be (1m), r. (20s), am. (18), (25), renum. (26) to be (1) and am. Register December 2011 No. 672, eff. 1-1-12.

NR 46.16 Managed forest land application.

(1) APPLICATION DEADLINES. An application for designation of land as managed forest land shall be signed by all owners on forms provided by the department and filed as follows:

(a) Applications shall be postmarked or received by the department no later than June 1 to be considered for designation effective the following January 1.

(cm) Notwithstanding par. (a), applications from owners of land entered as forest cropland under s. 77.02, Stats., subject to an ownership change within 18 months prior to the end of the contract period shall be postmarked or received by the department no later than July 1 or later for good cause to be considered for designation effective the following January 1.

(d) Lands subject to an ownership change after the application deadline, but before the order of designation has been issued, may not be designated as managed forest land for the year for which the original application was submitted. Ownership changes taking place after the issuance of an order of designation shall be processed as a normal transfer after January 1. The new owner shall submit a new and complete application by the next applicable deadline. The department may designate land that remains under the original ownership effective January 1 of the year for which the original application was submitted providing the remaining land qualifies for entry.

(e) Each application 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 \$30.00 per county in which the land that is the subject of the application is located.

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

(2) ATTACHMENTS. (a) A copy of the recorded legal instrument giving the applicant an ownership interest in the land subject to the application shall accompany and be part of the application.

(b) The applicant shall furnish a copy of a recent property tax bill or other documentation showing the parcel identification number used by that county to identify the specific real estate parcel being applied for designation.

(c) Upon request by the department, the applicant shall also submit a copy of the legal instrument giving the applicant an ownership interest in all land in the same municipality which is contiguous to the land subject to the application.

(d) Upon request by the department, the applicant shall furnish further documentation on the establishment, by-laws, agreements or the status of corporations, partnerships, trusts and cooperatives having an ownership interest in the land subject to the application.

(e) A copy of any certified survey map recorded for the land subject to the application, or referenced in the legal instrument provided under par. (a) and pertaining to land adjacent to land subject to the application shall accompany and be part of the application.

(f) A management plan, on forms provided by the department, by all persons with an ownership interest.

(g) A map, on forms provided by the department, showing land eligible for designation and areas designated as closed to public access under s. 77.83, Stats. The map shall show major land features, using conventional map symbols, and vegetation

cover types indicating species, size and density where appropriate.

(h) Reconnaissance data and scheduled practices on forms provided by the department.

Note: Forms can be obtained by contacting the Division of Forestry, Bureau of Forest Management, PO Box 7921, Madison, WI 53707.

(3) ENCUMBRANCES. Any person holding encumbrances on the land subject to the application shall sign the application prior to its filing to indicate agreement with it.

(4) UNPAID TAXES. The applicant shall upon request of the department furnish proof acceptable to the department that taxes are paid in full.

(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. All eligible land under the same ownership that crosses any municipal boundary where land designated for entry in any one municipality is less than 10 acres in size or less than 80% productive, when applied for designation in the same year, shall be designated under the same order of designation.

(6) APPLICATION AMENDMENTS. An application for designation of land as managed forest land may be altered or amended to accurately reflect lands eligible for entry prior to issuance of the order of designation.

(7) ADDITIONS. An owner may apply to the department to designate 10 or more acres of land as managed forest land which is contiguous to land that was designated as managed forest land on or after April 28, 2004 as an addition to the previously designated and contiguous managed forest land. If the application for an addition is for land which is contiguous to land that was designated as managed forest land on or after April 28, 2004 in an adjacent municipality, the land must be designated under a separate order if it meets the eligibility requirements under s. NR 46.17 and s. 77.82 (1) (a), Stats.

(9) DEPARTMENT PREPARED APPLICATIONS. (a) The department shall refer all requests for managed forest law applications to certified plan writers.

(b) The department may agree to develop an application to be filed under s. 77.82 (2), (4), (4m), or (12), Stats., if, by the January 1 prior to the application deadline, services by an independent certified plan writer are not available in the county in which the land is located. The department shall notify the owner in writing if the department agrees to prepare the management plan. Managed forest law applications includes requirements under s. 77.82 (2), (2m), and (3), Stats., and s. NR 46.16 (1), (2), (3), and (6), and s. NR 46.18.

Note: This section interprets and administers s. 77.82 (1), (2) and (7) (c), Stats., relating to submission of a petition for designation, and s. 77.82 (7) (a) 5., Stats., regarding payment of taxes. Further petitioning requirements and provisions are contained in s. 77.82 (2), Stats.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86; cr. (7), Register, October, 1987, No. 382, eff. 11-1-87; am. (4), Register, October, 1990, No. 418, eff. 11-1-90; cr. (1) (c), Register, October, 1994, No. 466, eff. 11-1-94; am. (1) (b), Register, October, 1995, No. 478, eff. 11-1-95; am. (2), Register, October, 1997, No. 502, eff. 11-1-97; cr. (8), Register, December, 1998, No. 516, eff. 1-2-99; cr. (1) (b) 3., Register, October, 2000, No. 538, eff. 11-1-00; CR 03-034: am. (1) (c) Register October 2003 No. 574, eff. 11-1-03; CR 04-136: r. and recr. (1), am. (2) (a) and (7), cr. (2) (e) Register July 2005 No. 595, eff. 8-1-05; CR 07-024: cr. (1) (e), am. (5), Register October 2007 No. 622, eff. 11-1-07; CR 09-031: am. (5) Register November 2009 No. 647, eff. 12-1-09; CR 08-023b: am. (1) (b) and (6) Register February 2010 No. 650, eff. 3-1-10; CR 10-031: cr. (1) (cm), am. (7) Register October 2010 No. 658, eff. 11-1-10; CR 11-013: am. (1) (intro.), (a), (cm), (d), (e), (2) (a) to (e), (3) to (7), r. (1) (b), (c), (8), cr. (2) (f), (g), (h), (9) Register December 2011 No. 672, eff. 1-1-12; correction in (9) (b) made under s. 13.92 (4) (b) 7., Stats., Register January 2017 No. 733.

NR 46.165 Certified plan writer. (1) PURPOSE. The purpose of this section is to establish a program to identify and qualify non-department individuals to become certified to prepare management plans for the department under the managed forest land program.

(2) TRAINING MATERIALS AND GUIDANCE. The department shall provide training materials and department guidance for management plan development.

(3) CERTIFICATION REQUIREMENTS. The department shall certify an individual as a plan writer if the individual:

(a) Applies and submits information required consistent with application deadlines specified by the department on forms prepared and provided by the department for certification to prepare applications under the managed forest land program.

(b) Is a cooperating forester as defined in s. NR 1.21 (2) (b) and participates and complies with the “cooperating forester program” as provided in s. NR 1.213.

(c) Completes the basic training session sponsored by the department.

(d) Submits within 120 days of attending the basic training session under par. (c) any required training materials which must be reviewed and approved by the department.

(4) CERTIFICATION MAINTENANCE. To maintain plan writer certification, the certified plan writer shall:

(a) Comply with all guidelines, manuals and directives provided by the department at the time of application and during training to maintain certification status.

(b) Prepare a minimum of one managed forest law management plan every 2 years which has been approved by the department.

(c) Attend one department sponsored update training session each year.

(d) Prepare managed forest law management plans consistent with department guidelines, manuals and directives.

(e) Maintain status as a cooperating forester as defined in s. NR 1.21 (2) (b) and participate and comply with the “cooperating forester program” as provided in s. NR 1.213.

(f) On or before May 1 of each year submit a report of managed forest law management plan fees charged as an independent certified plan writer during the preceding 12 months in a method approved by the department. The report shall include the cost per acre, the county where the land was located and the acres covered by the plan.

(5) REVOKING CERTIFICATION. (a) The department may revoke the certification of a plan writer for failure to comply with any certification maintenance requirements in sub. (4).

(b) Revocation may be for a period of no more than 2 years if revocation is the result of failure to comply with sub. (4) (a) or (d).

(c) Certified plan writers shall be notified of the cause for revocation.

(6) CERTIFICATION FOLLOWING REVOCATION. (a) If certification was revoked for a failure to comply with sub. (4) (b), (c), (e) or (f), the individual may immediately apply to be certified by completing the requirements under sub. (3).

(b) If certification was revoked for a failure to comply with sub. (4) (a) or (d), the individual may not apply to be certified until the period of revocation has been completed. Applicants shall:

1. Comply with the requirements under sub. (3) (a), (b) and (c).

2. Submit within 120 days of attending the basic training session 2 managed forest law management plans prepared after the certification was revoked which are approved by the department.

History: CR 04-136: cr. Register July 2005 No. 595, eff. 8-1-05; emerg. cr. (4) (f) and am. (6) (a), eff. 10-4-05; CR 05-087: cr. (4) (f), am. (6) (a) Register May 2006 No. 605, eff. 6-1-06; CR 10-031: am. (4) (f) Register October 2010 No. 658, eff. 11-1-10; CR 11-013: am. (3) (a), (d), (4) (f) Register December 2011 No. 672, eff. 1-1-12.

NR 46.17 Managed forest land eligibility.
(1) REQUIRED TIMBER PRODUCTION. (a) A minimum of 80% of

an entire managed forest land parcel shall be capable of producing merchantable timber as defined in s. NR 46.15 (2).

(b) No more than 20% of a managed forest land parcel may consist of land unsuitable for producing merchantable timber as provided in s. 77.82 (1) (b) 1., Stats., or non-stocked land as defined in s. NR 46.15 (22) or a combination of those types of land.

(2) MINIMUM WIDTH. The minimum width of managed forest land is 120 feet except that segments less than 120 feet in width are permitted if the length to width ratio does not exceed 4 to 1.

(3) BUILDINGS ON MANAGED FOREST LAND. Land adjacent to buildings which is landscaped, improved or has ornamental planting or other alteration of vegetation and the land under such buildings is not eligible for designation.

Note: Additional clarification of buildings ineligible for designation is covered in s. 77.82 (1) (b) 3., Stats., and s. NR 46.15 (9).

Note: This section interprets and administers s. 77.82 (1), Stats., which describes further the eligibility requirements.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86; r. and recr. (2), Register, October, 1989, No. 406, eff. 11-1-89.

NR 46.18 Management plan. (2) MANDATORY PRACTICES. The management plan shall be prepared on forms provided by the department, signed by all owners and shall include a list of stands subject to mandatory practices, a schedule of completion dates and a description of the mandatory practices to be undertaken during the term of the order. The following practices, if determined applicable by the department, shall be addressed in the management plan:

(a) Harvesting mature timber according to sound forestry practices.

(b) Thinning plantations and natural stands for merchantable products according to sound forestry practices.

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

(d) Reforestation of land to meet one of the following size and minimum medium density classifications:

| Stand Size Classes | Tree Diameter Ranges at 4.5 Feet From Ground Level | Minimum Medium Density |
|---------------------|--|--|
| Seedlings | 0"-1" | 800 trees per acre for natural stands. 400 trees per acre for planted stands. |
| Saplings | 1"-5" | 400 trees per acre for natural stands. 300 trees per acre for planted stands. |
| Pole timber | | |
| For conifer species | 5"-9" | 7 cords per acre |
| For other species | 5"-11" | |
| Sawtimber | | |
| For conifer species | 9"+ | 3,000 board feet per acre. |
| For other species | 11"+ | |

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

(f) Soil conservation practices that may be necessary to control any soil erosion that may result from department approved forestry practices.

(3) APPROVED PRACTICES. (a) The management plan may contain a schedule of approved but not mandatory forestry practices.

(b) The management plan may contain a schedule of approved but not mandatory practices for the management of

forest resources other than trees including wildlife habitat, watersheds, and aesthetic features as follows:

1. No more than 20% of an owner's total contiguous designated managed forest land acreage may be non-stocked land, land unsuitable for producing merchantable timber or a combination of both. For purposes of this determination, the department shall consider only cover types comprising 2 or more acres.

2. On the 80% of a managed forest land parcel required to produce or be capable of producing 20 cubic feet per acre per year, practices for the management of forest resources other than trees may be approved consistent with owner objectives as provided in subd. 2. a. and b.

a. The creation of openings and other vegetative cover not producing forest products at the level meeting minimum eligibility requirements under s. 77.82 (1) (a) 2., Stats., may be approved so long as the total area of openings or vegetative cover, combined with land unsuitable for producing merchantable timber and non-stocked land, does not exceed 20% of the managed forest land parcel.

b. In addition to practices approved under subd. 2. a., other practices may be approved on managed forest land to accomplish the objectives of the owner relating to forest resources other than trees if such approved practices do not significantly alter the value of the merchantable stand of timber or preclude the growing of future forest crops for commercial use. Such approved practices may include, where consistent with the landowner's objectives, dividing clear-cuts into smaller blocks, shortening or lengthening rotations, creating irregular cutting boundaries, leaving uncut small stands, strips or individual trees on clear-cut, modifying residual basal area on partial cuts, modifying species composition, reserving den or cavity trees, substituting partial cuts for clear-cuts or substituting clear-cuts for partial cuts.

(4) LARGE OWNERSHIPS. (a) The requirements of this section for management plans may be modified by the department for ownerships exceeding 1,000 acres after consideration of the following:

1. Other land of the owner entered as managed forest land, forest crop land or other forest tax law programs administered by the department.

2. The number of counties in which lands proposed for entry or renewal or the owner's existing managed forest land and forest crop land and woodland tax law lands lie.

3. The existence and availability for review of a management plan prepared by or for the owner and acceptable to the department.

4. Submission of a written commitment from an owner to provide, upon department request, information from the management plan for review or audit. The commitment shall describe the management plan and outline the procedure used to update and amend the management plan.

5. An owner's demonstrated consistent accessibility to competent technical forest management assistance through staff or consultant services.

(b) A management plan under s. 77.82 (3), Stats., shall be developed by owners who no longer qualify as a large ownership in sub. (4) (a). All items listed in s. NR 46.16 (2) (f), (g), and (h) must be submitted to the department for approval within one year after being notified by the department of no longer meeting the requirements in sub. (4) (a).

(5) MANAGEMENT PLAN AS A CONDITION OF DESIGNATION. (am) A management plan agreed to by the department and the owner is a condition of designation.

(bm) Management plans for applications under s. NR 46.16 (1) (a) received on or before June 1 or under s. NR 46.16 (1) (cm) received on or before July 1 shall be prepared by a certified plan writer or the department itself.

1. Management plans shall be approved by the department no later than October 1 of the year in which the order of designation will be issued. The department shall approve a management plan if all the following apply:

b. The management plan includes all requirements under subs. (2) and (3), as approved by the department.

d. All owners have signed the management plan.

2. As a condition of designating the land for plans prepared by the department, the applicant shall pay the management plan fee no later than October 1 of the year in which the order of designation will be issued.

3. Failure to have a management plan approved by the department on or before October 1 of the year in which the order of designation will be issued or a later date agreed to by the department, conditioned by s. 77.82 (9), Stats., will result in a denial of the application.

Note: The treatment of sub. (5) as revised and published in July 2005 and May 2006, first applies to management plans that are filed on or after November 1, 2005.

(6) MODIFICATION OF DESIGNATION OF CLOSED OR OPEN AREAS. A landowner may modify the designation of a closed or open area twice during the period beginning with April 28, 2004 and ending with the expiration date of the order. Requests for changes in the open/closed designation shall be in writing or on department forms filed with the department. Requests received by the department no later than December 1 in a given year will be eligible to be effective the following January 1. Requests received by the department after December 1 and before the end of the year, shall be effective January 1 of the second year beginning after the year in which the form is received.

Note: Requests to change the open/closed status must be filed by the deadline at: Division of Forestry, Bureau of Forest Management, Forest Tax Section, PO Box 7963, Madison, WI 53707.

Note: This section interprets and administers ss. 77.82 (3) and (7) and 77.83 (1) and (1m), Stats., which describe further requirements for the management plan and designation of closed areas.

(8) MANAGEMENT PLAN FEE. (a) 1m. The department shall charge a management plan fee for plans the department prepares for applications filed under s. 77.82 (2), (4), (4m), and (12), Stats.

2. The management plan fee will be based on a formula established in this section. The fee assessed shall be the fee in effect on the June 2 following the date the application was filed.

(b) On June 2 of each year the statewide management plan fee shall be calculated. The management plan fee shall consist of a cost per acre rate. The rates shall be calculated by averaging the cost preparation data submitted by independent certified plan writers under s. NR 46.165 (4) (f) from the 12-month period ending on the prior May 1.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86; am. (6), Register, October, 1991, No. 430, eff. 11-1-91; am. (5), Register, October, 1997, No. 502, eff. 11-1-97; am. (6), Register, October, 2000, No. 538, eff. 11-1-00; CR 03-034; renum. and am. (1) (a) and (b), cr. (1) (b) and (c) Register October 2003 No. 574, eff. 11-1-03; CR 04-136; am. (5) and (6) Register July 2005 No. 595, eff. 8-1-05; emerg. am. (5) (a) 1. to 3. and (b) (intro.) and 1., cr. (7) and (8), eff. 10-4-05; CR 05-087; am. (5) (a) 1. to 3. and (b) (intro.) and 1., cr. (7) and (8) Register May 2006 No. 605, eff. 6-1-06; CR 06-027; am. (2) (c) and (e) Register October 2006 No. 610, eff. 11-1-06; CR 09-031; am. (5) (a) 1. to 3. Register November 2009 No. 647, eff. 12-1-09; CR 10-031; am. (2) (d) Table and (8) (b), cr. (5) (c), r. (7) (c) Register October 2010 No. 658, eff. 11-1-10; CR 11-013; r. (1), (5) (a) 1. a., c., (b), (c), (7), (8) (a) 1., renum. (4) (intro.), (b) to (e) to be (4) (a) (intro.), 2. to 5., renum. (4) (a) to be (4) (a) 1. and am., cr. (4) (b), am. (5) (a) (intro.), 1. (intro.), b., d., 2., 3., (8) (a) (intro.), 2., (b) Register December 2011 No. 672, eff. 1-1-12; (5) (intro.), (a), (8) (a) (intro.) renumbered to be (5) (am), (bm), (8) (a) 1m. under s. 13.92 (4) (b) 1., Stats., Register December 2011 No. 672; **correction in (8) (a) 1m. made under s. 13.92 (4) (b) 7., Stats., Register January 2017 No. 733.**

NR 46.19 Closed area. (1) An owner of land designated as managed forest land effective on or after April 28, 2004 may designate a maximum of 160 acres in the municipality as closed to public access in accordance with sub. (3). Not more than 80 acres or 2 legal descriptions may be land designated as managed forest land prior to April 28, 2004.

Note: To be treated as a "legal description" all of the land with in it must be designated as managed forest land.

(2) An owner of land designated as managed forest land effective before April 28, 2004 may designate a maximum of 80 acres in the municipality as closed to public access in accordance with sub. (3).

(3) A closed area may consist of either of the following:

(a) Any combination of:

1. A parcel or parcels of managed forest land.
2. All of an owner's managed forest land within quarter quarter sections, government lots or fractional lots.
3. An additional block of acreage within a legal description, not exceeding a length to width ratio of 4 to 1, unless limited by the size of the entry, to complete the total closed area.

(b) Any combination of 2 quarter quarter sections, government lots or fractional lots if the owner owns all of the land in the legal description.

Note: This section interprets s. 77.83 (1), Stats., which provides further direction on the establishment or designation of closed areas.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86; am. Register, October, 1995, No. 478, eff. 11-1-95; CR 04-136: r. and recr. Register July 2005 No. 595, eff. 8-1-05.

NR 46.20 Public access. (1) Except as provided in sub. (2), the owner of managed forest land may not restrict public access to such land for activities authorized in s. 77.83 (2) (a), Stats., unless it has been designated closed under s. 77.83 (1) (a), Stats.

(2) If public access to open managed forest land is available solely by crossing contiguous land of the owner which is not entered as managed forest land, contiguous managed forest land of the owner which has been designated closed under s. 77.83 (1) (a), Stats., or an access by easement or otherwise which provides the owner access, the owner may not restrict public access for activities authorized in s. 77.83 (2) (a), Stats., through or across such land except the owner may limit the public access across such land or access way to a reasonable corridor or location which is designated in accordance with s. NR 46.21 (3) (b).

Note: This section interprets and administers s. 77.83 (2) and (3), Stats., which establish and provide further requirements to keep land open for certain public uses and authorizes the department to establish posting standards.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86.

NR 46.21 Posting standards. (1) SIZE. Signs designating open and closed land shall be a minimum size of 11 by 11 inches.

(2) **CLOSED AREAS.** (a) Closed areas may be posted with commonly used no trespass signs or signs indicating the land is closed to public access or trespass, in conformance with par. (b) and s. 943.13, Stats.

(b) Closed and open area signs shall be posted as follows:

1. In conspicuous view a minimum of 4 feet above the ground, and
2. At an interval of at least 2 per one quarter mile on the boundary of the designated area or as otherwise approved by the department.

(3) **OPEN AREAS.** (a) Open areas are not required to be posted to identify they are managed forest land unless otherwise required in this section.

(b) Open areas may be posted in conformance with this section and s. 943.13, Stats., against uses other than hunting, fishing, hiking, sight-seeing and cross-country skiing as long as the posted signs indicate the land is managed forest land and the land is open to the public for hunting, fishing, hiking, sight-seeing and cross-country skiing.

(c) If access to open managed forest land is limited as provided in s. NR 46.20, the location of the access shall be reasonably identified on signs meeting the requirements of this section in print of equal size to other print on the sign. Signs shall be at locations and in sufficient number to provide reasonable notice to those attempting access.

(4) **COMMERCIAL LOGGING POSTING.** (a) Land within 300 feet of a commercial logging operation may not be posted to restrict public access prior to the date cutting commences.

(b) Restricted area signing for commercial logging operations may be continued only if 50% or more of the volume identified in the approved cutting notice or prescribed by the approved management plan is cut within one year of the date cutting is commenced and continues as indicated to the department.

Note: This section interprets and administers s. 77.83 (3), Stats., which authorizes the department to establish design standards for signs.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86.

NR 46.22 Withdrawal. (1) The department may order withdrawal of land under s. 77.88 (1), Stats., if the land comprises any of the following:

- (a) An entire quarter quarter section, government lot or fractional lot of managed forest under the same order.
- (b) An entire parcel of managed forest land.
- (c) All managed forest land under the same order owned by the owner in a quarter quarter section, government lot or fractional lot if the withdrawal is required as a result of a mistake by the owner.

(2) Voluntary withdrawals submitted for processing under s. 77.88 (3), Stats., shall be filed with the department. Requests received by the department no later than December 1 on department forms will be eligible to be effective by the following January 1. Requests for withdrawal received by the department after December 1 and before the end of the year, shall be effective January 1 of the second year beginning after the year in which the form is received.

Note: Forms for withdrawal must be filed by the deadline at: Bureau of Forestry, Forest Tax Section, PO Box 7963, Madison, WI 53707. Forms may be obtained at no charge by writing the same address.

Note: This section interprets and administers s. 77.88 (1), Stats., which authorizes the department to withdraw land from managed forest land designation and is consistent with the voluntary withdrawal provisions under s. 77.88 (2), Stats., as it relates to the minimum size of a description of land that may be withdrawn.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86; am. Register, October, 2000, No. 538, eff. 11-1-00.

NR 46.23 Sale or transfer. (1) A sale or transfer of managed forest land not authorized under s. 77.88 (2), Stats., shall render the managed forest land in the quarter quarter section, government lot or fractional lot in which the unauthorized transfer occurred ineligible for continued designation. The withdrawal tax under s. 77.88 (5), Stats., shall be calculated on the land ineligible for continuation, to be prorated to the owners of record.

(2) If land transferred does not meet the eligibility requirements under subch. VI of ch. 77, Stats., the department shall issue an order withdrawing the land and assess the withdrawal tax and the withdrawal fee against the transferee.

(2m) A management commitment under s. NR 46.18 (4) (a) 4. does not qualify as a management plan under s. 77.88 (2) (ac), Stats., unless the transferred land qualifies as a large ownership under s. NR 46.18 (4) (a). The transferee shall provide a management plan under s. 77.82 (3), Stats., with all items listed under s. NR 46.16 (2) (f), (g), and (h) and must submit the management plan to the department for approval within one year of transfer.

(3) Transfers requesting a change in the "open/closed" designation shall be in writing on department forms filed with and received by the department by December 1 in order for the change in the "open/closed" status to be eligible to be effective the following January 1. Requests for transfers, which change the "open/closed" designation, received by the department after December 1 but before the end of the year shall be effective January 1 of the second year beginning after the year in which the form is received.

(4) **ATTACHMENTS.** Each transfer request shall be on forms provided by the department and include the following:

(a) A copy of the recorded legal instrument giving the transferee an ownership interest in the land subject to the transfer.

(b) A copy of any certified survey map recorded for the transferred land transfer, or referenced in the legal instrument provided under par. (a).

(c) A copy of a recent property tax bill or other documentation showing the parcel identification number used by that county to identify the specific real estate parcel being transferred.

Note: Forms for transferring managed forest land should be sent to the DNR forester in the county where the land is located. Forms may be obtained at no charge by writing: Division of Forestry, Bureau of Forest Management, Forest Tax Section, PO Box 7963, Madison, WI 53707.

Note: This section interprets s. 77.88 (2), Stats., which establishes further standards for transfer or sale of managed forest land.

(5) TRANSFER FEE. Thirty dollars for each county included on the application 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) (ac), Stats. The amount credited may not exceed the transfer fee collected.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86; renun to be (1), cr. (2), Register, October, 1989, No. 406, eff. 11-1-89; am. (1), Register, October, 1990, No. 418, eff. 11-1-90; cr. (3), Register, October, 2000, No. 538, eff. 11-1-00; CR 04-136: am. (2), cr. (4) Register July 2005 No. 595, eff. 8-1-05; CR 07-024: cr. (5), Register October 2007 No. 622, eff. 11-1-07; CR 11-013: cr. (2m), am. (4), (5) Register December 2011 No. 672, eff. 1-1-12; **correction in (2m), (5), made under s. 13.92 (4) (b) 7., Stats., Register January 2017 No. 733.**

NR 46.24 Alternative withdrawal tax. (1) ESTIMATE. If calculated by the department, the determination of the withdrawal tax under s. 77.88 (5) (af) 2., Stats., shall be based on merchantable timber volume estimated from department forest cover type maps indicating timber size and density classes or from aerial photographic interpretation and values established by the current stumpage value schedule pursuant to s. 77.91 (1), Stats.

(2) ACCURACY. If the estimate of merchantable volume of timber for the purpose of calculating the alternative withdrawal tax under s. 77.88 (5) (af) 2., Stats., is made by an estimator other than the department, the cruise shall be established by on site sampling at an accuracy level $\pm 15\%$ to $\pm 20\%$ at 2 standard deviations for any one owner in a single municipality. The cost of such an estimate shall be paid by the landowner.

(3) MERCHANTABLE TIMBER. For the purpose of calculating the 5% stumpage value alternative for the withdrawal tax under s. 77.88 (5) (af) 2., Stats., timber shall be considered merchantable if the department determines it is:

(a) Of size, quality and species to meet commonly accepted industry standards for a specific timber product,

(b) A timber product which is or has been salable within the last calendar year preceding the date of the owner's declaration or withdrawal within the department's administrative area identified pursuant to s. 77.91 (1), Stats., in which the subject land is located,

(c) Located in terrain which can be commercially logged with equipment and logging methods commonly used by the timber producers operating within the department's severance and yield schedule zones identified pursuant to s. 77.91 (1), Stats., in which the subject land is located, and

(d) In sufficient volume to attract a commercial buyer if it were to be offered for sale.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86; cr. (3) and (4), Register, October, 1990, No. 418, eff. 11-1-90; r. and recr. (1) and (2), Register, October, 1991, No. 430, eff. 11-1-91; r. and recr. (4), Register, October, 1997, No. 502, eff. 11-1-97; CR 11-013: am. (title), (1), (2), (3) (b), (c), r. (4), Register December 2011 No. 672, eff. 1-1-12; **correction in (1), (2), (3) made under s. 13.92 (4) (b) 7., Stats., Register January 2017 No. 733.**

NR 46.25 Information on location of managed forest land. Information listing the location of open and closed managed forest law land shall be in the form of annually updated computer generated printouts showing acreage of open land by legal description, county and town and shall be offered for sale at the cost of copying and average mailing cost.

Note: This section interprets s. 77.91 (2), Stats., which requires the department to prepare and offer for sale information describing the location of managed forest land to the public.

History: Cr. Register, October, 1986, No. 370, eff. 11-1-86.

NR 46.26 Yield tax. No yield tax under s. 77.87 (1), Stats., may be assessed for timber cut before the end of the 5th year of the managed forest land order for lands designated as managed forest land effective on or after April 28, 2004 unless the lands were applied for under s. 77.82 (4), (4g), (4m) or (12), Stats., or unless the lands that were applied for under s. 77.82 (2), Stats., were subject to an expiring contract under s. 77.03, Stats.

Note: Section 77.87 (1), Stats., was repealed by 2015 Wis. Act 358, rendering this section without effect.

History: CR 04-136: cr. Register July 2005 No. 595, eff. 8-1-05; CR 11-013: am. Register December 2011 No. 672, eff. 1-1-12.

Subchapter IV — Stumpage Rates

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

(b) 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.

(c) 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.

(d) Peeled cordwood volume will be converted to volume of rough products by adding 12 $\frac{1}{2}\%$ for hand-peeled or 25% for machine-peeled wood.

(e) Except as provided in par. (f), a reduction of 30% of the stumpage value for severance and yield tax, as listed under the current stumpage value schedule, shall be made for those species salvaged as a result of catastrophic loss. 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.

(f) A reduction of 70% of the stumpage value for severance and yield tax, as listed under the current stumpage value schedule, 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.

(g) 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 |
| Cedar | 3,150 | 3,050 |
| Balsam Fir | 4,250 | 4,050 |
| Hemlock | 4,800 | 4,650 |
| Jack Pine | 4,250 | 4,100 |
| Red Pine | 4,500 | 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 |

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

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80; r. and recr. (2), Reg-

ister, October, 1980, No. 298, eff. 11-1-80; r. and recr. (2) (a) to (c), Register, October, 1981, No. 310, eff. 11-1-81; r. and recr. (2) (intro.), (a) to (c), Register, October, 1982, No. 322, eff. 11-1-82; am. (1) (d), r. and recr. (2) (a), (b) and (c), Register, October, 1983, No. 334, eff. 11-1-83; am. (2) (a) (b) and (c), Register, October, 1984, No. 346, eff. 11-1-84; r. and recr. (2) (a), (b) and (c), Register, October, 1985, No. 358, eff. 11-1-85; renum. from NR 46.09 and am. (1) (d) and (2) (intro.), r. and recr. (2) (a) to (d), Register, October, 1986, No. 370, eff. 11-1-86; r. and recr. (2) (a) to (d), Register, October, 1987, No. 382, eff. 11-1-87; r. and recr. (2), Register, October, 1988, No. 394, eff. 11-1-88; r. and recr. (2) (a) to (c), Register, October, 1989, No. 406, eff. 11-1-89; r. and recr. (2) (a) to (c), Register, October, 1990, No. 418, eff. 11-1-90; r. (1) (e), renum. (1) (f) to be (1) (e), r. and recr. (2) (a) to (c), Register, October, 1991, No. 420, eff. 11-1-91; r. and recr. (2) (a) to (c), Register, October, 1992, No. 442, eff. 11-1-92; r. and recr. (2) (a) to (c), Register, October, 1993, No. 454, eff. 11-1-93; r. and recr. (2) (a) to (d), Register, October, 1994, No. 466, eff. 11-1-94; r. and recr. (2) (a) to (c), Register, October, 1995, No. 478, eff. 11-1-95; r. and recr. (2) (a) to (c), Register, October, 1996, No. 490, eff. 11-1-96; r. and recr. (2) (a) to (c), Register, October, 1997, No. 502, eff. 11-1-97; r. and recr. (2) (a) to (c), Register, October, 1998, No. 514, eff. 11-1-98; r. and recr. (2) (a) to (d), Register, October, 1999, No. 526, eff. 11-1-99; reprinted to correct table titles, Register, January, 2000, No. 529; r. and recr. (2) (a) to (c), Register, October, 2000 No. 538, eff. 11-1-00; CR 01-036: am. (1) (e) and r. and recr. (2) (a) to (c), Register October 2001 No. 550, eff. 11-1-01; CR 02-047: r. and recr. (2) (a) to (c), Register October 2002 No. 562, eff. 11-1-01; CR 03-034: r. and recr. (2) (a) to (c) Register October 2003 No. 574, eff. 11-1-03; CR 04-048: r. and recr. (2) (a) to (c) Register October 2004 No. 586, eff. 11-1-04; CR 05-030: r. and recr. (2) (a) to (c) Register October 2005 No. 598, eff. 11-1-05; CR 06-027: am. (1) (e) 1., r. and recr. (2) (a) to (c), renum. (2) (d) to be (2) (e), cr. (2) (d) Register October 2006 No. 610, eff. 11-1-06; CR 07-024: renum. (1) (a), (b), (c), (d) and (e) to be (1) (b), (c), (d), (e) and (g) and am. (1) (e), cr. (1) (a) and (f), r. and recr. (2) (a) to (d), Register October 2007 No. 622, eff. 11-1-07; CR 08-023: r. and recr. (2) (a) to (d) Register October 2008 No. 634, eff. 11-1-08; CR 09-031: r. and recr. (2) (a) to (e), cr. (2) (f) and (g) Register November 2009 No. 647, eff. 12-1-09; CR 10-031: am. (1) (e) and (f), r. (2) Register October 2010 No. 658, eff. 11-1-10.