Form 1100-001
(R 2/07)

NATURAL RESOURCES BOARD AGENDA ITEM

Item No. 3.B.4

SUBJECT: Adoption of Board Order FR-13-07, revisions to NR46, relating to stumpage rates, catastrophic loss provisions and application fees.

FOR: JUNE 2007 **BOARD MEETING**

TO BE PRESENTED BY: Carol Nielsen

SUMMARY:

The Department requests adoption of the proposed changes to NR46 Wis. Admin. Code, including...

1) Annual Stumpage Rate Adjustments. Section 77.06 (2) and 77.91 (1), Stats., require that the department establish stumpage rates (values) used in calculating severance and yield taxes on timber harvested from land enrolled in the Forest Crop Law (FCL) and Managed Forest Law (MFL). This rule would repeal and recreate NR 46.30 (2) (a) to (d) to revise the stumpage values to be used in calculating severance taxes and yield taxes for timber harvested during the period of November 1, 2007 and October 31, 2008. Thirteen separate zones reflect varying stumpage values for different species and products across the state. The average change for saw timber is a 5% decrease over current rates . The pulpwood prices, on average, would decrease 10%. Stumpage values are collected from private, state and county timber sales to be used in calculating the proposed stumpage rates.

2) Catastrophic loss (30% reduction in stumpage value) is granted when timber harvested meets requirements set in NR 46.30 (1). The proposal is to reduce the acreage requirement from 10 to 5 contiguous acres and to increase the reduction in stumpage value from 30% to 70% for catastrophic loss granted as a result of fire.

3) Application fee revision resulting from 2005 Act 299. Previously petitions and orders of designation covered all land under the same ownership in the same municipality. Act 299 removed the municipality requirement. All land under the same ownership will be included on one petition. If there is more than one county the order of designation must be recorded in each county. The change proposed would require an application fee of $20/county on the petition to cover the recording costs in each county.

RECOMMENDATION: Adopt Board Order FR-13-07 revisions to NR46, relating to stumpage rates, catastrophic loss provisions and application fees.

LIST OF ATTACHED MATERIALS:

No	☐	Fiscal Estimate Required	Yes	☑	Attached
No	☑	Environmental Assessment or Impact Statement Required	Yes	☐	Attached
No	☐	Background Memo	Yes	☑	Attached

APPROVED:

Robert J. McCabe — Bureau Director — Date 05/24/07

Paul DeLong — Administrator — Date 5/25/07

Scott Hassett — Secretary, Scott Hassett — Date 6/1/07

cc: Laurie J. Ross - AD/5
C. Turner - LS/5
P. DeLong - AD/5
R. Prosise - LS/5
C. Nielsen - FR/4

CORRESPONDENCE/MEMORANDUM

State of Wisconsin

DATE: May 14, 2007

TO: The Natural Resources Board

FROM: Scott Hassett

SUBJECT: **NRB approval of hearings for Board Order FR13-07, concerning revisions to NR46, related to stumpage rates, catastrophic losses and petition requirements.**

I. Why is the rule being proposed?

To make the annual stumpage rate adjustments as required in sections 77.06(2) and 77.91(1), Statutes for timber harvested on forest tax law lands. To amend the catastrophic loss provisions in existing rules to more fairly assess the yield and severances taxes for timber harvested as a result of a catastrophic loss. To make amendments to existing rules to bring them into compliance with changes made in 2005 Act 299 specifically that the 10 contiguous acres may be in more than one municipality.

II. Summary of the 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 year's 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 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 and the average change for pulpwood is a 10% decrease.

Amendments to catastrophic loss provisions in NR 46.30 (1): The changes proposed include reducing acres that are affected 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.

Concerns raised by landowners, foresters and legislators have prompted the Department to

review the current provisions for qualifying for catastrophic loss and the values used for assessing the yield and severance tax. The working group consisting of non-industrial and industrial private landowners, forest industry, DNR and Cooperating Foresters, Wisconsin Towns Association (WTA), Wisconsin Counties Association (WCA) and Wisconsin Professional Loggers association (WPLA) met in December 2006 to develop options for the Department's consideration. The guidelines for the group were 1) the stumpage value set must be reasonable (statutory), 2) the results must be fair to all involved and 3) there can be no increase in department positions. Some of the main concerns expressed in the group included that fire damage resulted in a more severe loss than other types of events; that basing the stumpage value on the value (money and service) received would be the fairest to the landowner but not necessarily to the municipality/county and would increase Department workload; and that keeping it simple was important. It was recognized that all of the options would reduce the revenue to the municipalities and counties that receive compensation from the yield and severance taxes but overall the reduction in revenue would not be significant since this would only apply to stumpage values for catastrophic losses. Revenues from invoices with catastrophic losses are on average less than 5% ($60,000) of the average $1.6 million collected annually from yield and severance taxes. The options forwarded to the Department were as follows:

1. Change the reduction in value for fire caused catastrophic losses from 30% to 70%.

   This option acknowledges that there is a greater loss from fire events, keeps it simple, does not require additional workload and would require a minimal amount of reprogramming to implement. It does treat other types of catastrophic events differently.

2. Reduce acreage requirement to 5 contiguous acres.

   This option is the easiest to implement, treats all types of catastrophic events the same, keeps it simple, provides incentive to clean up smaller areas and would not require any reprogramming. There would be an increase in claims but they are sites that would have been reviewed and denied in the past so there would be little additional workload.

3. Tie yield/severance tax to actual value, up to current stumpage rates, if documentation is provided. If no documentation is provided, use normal 30% reduction. The landowner would have the choice of stumpage rates or actual value. The documentation would include a combination of timber sale contract, scale slip/report with volume and value, copy of check, affidavit, and/or other documentation deemed appropriate by the Department.

   This option would be fair to the landowner; however it would not be simple. This option adds complexity for the landowner and would require additional time for the Department foresters to verify and review the documentation/proof of the value received. The value received is not limited to the money received but includes work done on site in conjunction with the timber sale (e.g., culverts, road construction, site preparation). This option would lead landowners to choose the lowest stumpage value. This option would require reprogramming to implement.

4. No yield or severance tax if the catastrophic loss was caused by fire and there was no monetary compensation received and no identifiable benefit from removal of the timber, aside from normal forest management operations (e.g., clearing for site preparation, road and landing construction necessary for logging).

This option acknowledges that there is a greater loss from fire events; however "normal forest management operations" is subjective, which adds to the complexity and the workload for the Department forester reviewing the cases. This option would be more complicated if combined with option 3 and it will require reprogramming to implement.

5. No yield or severance tax when there is a 2/3 or greater loss in value. Comparing value to estimated value before the event (volumes and current NR46 stumpage rates).

   This option is consistent in treating losses form all types of catastrophic events the same however it would be more complex for the landowner to prove the loss and for the Department forester to verify the loss. The option would add to the workload of the Department forester and would require reprogramming to implement.

Options 1 and 2 were chosen because they create a reasonable stumpage value, they do not require additional positions to implement, and they are the fairest to all involved including the municipalities and counties.

Amending petition requirements and application fee (implementation of 2005 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.
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.

III. How does the proposed rule affect existing policy?

The rule continues existing administrative practices on the stumpage prices, amends the provisions to qualify for catastrophic loss consideration and the method for determining stumpage values for fire caused losses. The rule also amends the policy for managed forest law petitions filed for lands in different municipalities but under the same ownership and it adjusts application fees. Only one petition per ownership will be required instead of one for each municipality. The application fee will be $20 per county included on the petition.

IV. Hearing Synopsis.

There were seven individuals in attendance at the public hearing at 10:00 am in Wausau, Wisconsin, on April 18, 2007. Four of the seven attendees made oral statements. 21 additional comments were

received by mail and e-mail. The following is a summary of the comments grouped by proposed change. The comments and oral statements came from industrial foresters, private foresters, DNR foresters and the Great Lakes Timber Producers association.

Annual Stumpage Rate Adjustment:
All comments received included recommendations related to the stumpage rates. The majority of the comments opposed the portions of the stumpage rate adjustments (22 out of 25). The comments focused on:

1. The stumpage rates calculated using the 3-year weighted average formula do not reflect a recent downturn in the market for some species and products.

   Background: The 3-year weighted average is used to calculate the initial proposal for the stumpage values. It is set at 3 years to slow the effect of increases and decreases in stumpage values since most timber sale contracts are 18 to 24 months (or more) in length. Further adjustments are made to the proposed rates based on comments received during the public comments period. An analysis of the stumpage data received in 2006 for 507 private timber sales showed that if these sales were from managed forest land:
   - 50% of the yield tax bills would have been between 4% and 6% of what was actually received. *
   - 85% of the yield tax bills would have been between 3% and 7% of what was actually received.*

   * Based on dollars received only. Information on the value of goods and services received was not available.

   Response: The proposed rates were adjusted based on the comments received, over 250 of the 440 sawtimber and pulpwood rates were lowered. The adjustments resulted in a decrease in the average sawtimber and pulpwood values instead of an increase. The average sawtimber change was a 5% decrease and the average pulpwood change was a 10% decrease.

2. The current formula used for calculating the rates should not include timber sale data from public timber sales. It is the generally felt that the public rates are higher than the private rates.

   Background: The initial rates proposed were calculated first using the *combined public and private timber sale data* and then again using *private only timber sale data*. A comparison of the two set of rates for the 440 sawtimber and pulpwood rates showed
   - 187 of the rates were the same for each calculation. This mostly occurred where there was no new data or very little data from one group or the other (public or private).
   - 152 of the rates were higher when using the *combined public and private timber sale data.*
   - 91 of the rates were higher when using the *private only timber sale data.*

   A review of the data used also showed that over the 3 year period 7,500 more records were received from private timber sales than from public timber sales (20,000 private records, 12,500 public records).

   Response: The rates were shifted to the *private only timber sale data* rate in most cases unless an adjustment was appropriate based on comments received. *Private only timber sale data* will be used in subsequent years.

3. The formula used for calculating the stumpage values should be reviewed for revision.

   Background: The formula was reviewed in 2003/2004 when work was being done for 2003 Wis. Act 228 (AB323). It was decided to leave the formula as is.

   Response: The formula will be revised immediately to use private timber sale data only since the amount of data from private timber sales available and reported has increased. A working group will be convened during 2007/2008 to review the formula and provide alternatives to the

department.

4. The yield tax for harvests on managed forest land should be dropped in conjunction with an increase in the annual acreage share tax.

   Background: The severance tax for timber harvest on forest crop land and the yield tax for timber harvests on managed forest land are written in Ch. 77, Wis. Stats. They were established as a deferral of part of the property taxes saved by the owner while the land was designated under on of the programs. The taxes are returned to the municipality and county.

   Response: Dropping the yield tax and raising the annual acreage share tax would require a statutory change and therefore cannot be revised by this rule change.

Amendment to catastrophic loss provisions in NR 46.30 (1):
All comments received on the catastrophic loss changes were in support of the proposed changes. One additional comment suggested that the increased reduction from 30% to 70% for wood damaged by a fire event be applied to other catastrophic events as well.

Response: The proposed changes to the catastrophic loss provisions in NR46.30 (1), Wis. Admin. Code were not changed. Information provided by the working group supported the difference in damages from fire events and other events.

Amending petition requirements and application fee (implementation of 2005 Act 299)
No comments were received on the petition and application fee changes.

V. Response to Legislative Council Clearinghouse Comments

All comments from the Legislative Council Clearinghouse were implemented. Comments were related to clarity, grammar, punctuation and use of plain language only.

VI. Explanation of changes to Rule or Fiscal Estimate

The fiscal estimate was updated as a result of the adjustment made to the proposed stumpage rates. The impact to local governmental unit revenues was adjusted from a $7,800 increase to a $11,400 decrease.

VII. Information on Environmental Analysis

The Department has made a determination that the proposed rule is a Type III action. An environmental assessment is not necessary.

VIII. Small business analysis.

This rule does affect small business. Small private forest landowners and forest industries enrolled under the Forest Crop Law and the Managed Forest Law are required to pay 10% and 5% respectively of the stumpage value adopted in the zone for the species and wood product volume cut from their land.

APPROVED:

Robert Mather 05/24/07 (Date)
Robert Mather, Director
Bureau of Forest Land Management

Paul DeLong 5/25/07 (Date)
Paul DeLong, Administrator
Division of Forestry

Wisconsin Department of Administration
Division of Executive Budget and Finance
DOA-2048 (R10/2000)

Fiscal Estimate — 2007 Session

		LRB Number	Amendment Number if Applicable
☐ Original	☒ Updated		
☐ Corrected	☐ Supplemental	Bill Number	Administrative Rule Number FR-13-07

Subject

Proposed revisions to Subch. III Ch. NR46, including revision to stumpage rates in NR 46.30 (2), requirements/ valuation of timber for catastrophic loss yield/severance taxes, and implementation of 2005 Wis. Act 299 relating to 10 contiguous acre eligibility requirement.

Fiscal Effect

State: ☒ No State Fiscal Effect
☐ Indeterminate

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

☐ Increase Existing Appropriation ☐ Increase Existing Revenues
☐ Decrease Existing Appropriation ☐ Decrease Existing Revenues
☐ Create New Appropriation

☐ Increase Costs — May be possible to absorb within agency's budget.
☐ Yes ☐ No

☐ Decrease Costs

Local: ☐ No Local Government Costs
☐ Indeterminate

1. ☐ Increase Costs
☐ Permissive ☐ Mandatory
2. ☐ Decrease Costs
☐ Permissive ☐ Mandatory
3. ☐ Increase Revenues
☐ Permissive ☐ Mandatory
4. ☒ Decrease Revenues
☒ Permissive ☐ Mandatory
5. Types of Local Governmental Units Affected:
☒ Towns ☒ Villages ☒ Cities
☒ Counties ☐ Others _____
☐ School Districts ☐ WTCS Districts

Fund Sources Affected

☐ GPR ☐ FED ☐ PRO ☐ PRS ☒ SEG ☐ SEG-S

Affected Chapter 20 Appropriations

20.370(1)(cr)

Assumptions Used in Arriving at Fiscal Estimate

This proposed rule change addresses the annual stumpage rate changes used in the calculation of severance and yield tax collections under Forest Cop Law (FCL) and Managed Forest Law (MFL) when timber is harvested from the private lands enrolled in the programs. Other changes proposed include a revision to the qualifications for granting catastrophic loss reductions for yield/severance taxes, revising the stumpage value reduction for fire-caused catastrophic loss, and revising the application and transfer fee to cover recording costs.

There is no net state fiscal effect from the proposed changes.

There is an estimated net decrease in local revenues of approximately $126,400 due to the changes in stumpage rates.

The proposed 2008 stumpage rate schedule includes an average 5% decrease in sawtimber prices and an average 10% decrease in cordwood prices. The average combined severance and yield tax collection from CY 2002 through CY 2006 was $1,600,000. Of this, about 42% of the gross revenue is from sawtimber harvests. Fifty-eight percent of the revenue was related to cordwood harvests. As a result, a 5% decrease in sawtimber prices could reduce revenues by $33,600. A 10% decrease in cordwood prices could result in an estimated decrease in revenue of $92,800. The cumulative effect would be a net decrease in revenues of $126,400.

Estimates are based on the average change in rates across species and zone for each product type (cordwood and sawtimber), the volumes reported and paid for in CY 2005, and the assumption that the volume and the ratio of the cordwood and sawtimber will remain the same.

The net fiscal impact of the stumpage rate changes in this rule change will be a decrease of approximately $126,400 to local revenues. Actual impact for a county and municipality will vary by harvests completed and actual species and products harvested.

Long-Range Fiscal Implications

None.

Prepared By:	Telephone No.	Agency
Joe Polasek	266-2794	Department of Natural Resources
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
	266-2794	05/11/2007

Fiscal Estimate — 2007 Session

Page 2 Assumptions Narrative Continued

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number FR-13-07

Assumptions Used in Arriving at Fiscal Estimate – Continued

Under current statutes for Forest Crop Law, the Department retains an amount equal to the annual aid payments made to the municipality and the balance of the severance tax is paid to the municipality. Under current statutes for Managed Forest Law, 100% of the yield tax collected is paid to the municipality. The municipality shares 20% of the amounts received with the county.

The other rule changes described below will have an anticipated reduction in local revenues of $7,800 and no net state fiscal effect. The other changes include:

1.) 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.

Currently out of 2,250 invoices issued annually 100 (4.44 %) contain catastrophic loss assessments. This represents about 3.75% ($60,000) of the average $1,600,000 collected annually. An additional 20 invoices is anticipated from this change.

The average invoice is for $742. Reducing these invoices by 30% would result in a decrease in revenue of $4500 ($742/invoice x .30 reduction x 20 invoices = $4452).

Increasing the reduction in stumpage value from 30% to 70% for fire-caused catastrophic losses reduces revenues an additional 40% from those invoices. Approximately 10% (10) of the catastrophic loss invoices are a result of fire mortality. The average assessment on catastrophic loss invoices is $580/invoice (70% of total assessed stumpage value of $829). These invoices would be reduced by an additional 40% ($829 x 40% = $332) for a total reduction in revenue of $3,300 (10 invoices x $332/invoice = $3,320).

The fiscal impact of these two changes is an estimated decrease of $7,800 ($4,500 + $3,300) in local revenues. There is no state fiscal impact. Actual impact for a county and municipality will vary by harvests completed and actual species and products harvested.

2.) 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 s. 20.370 (1) (cr), Stats.

From a review of application and entry data from the past 5 years, the Department determined that an average of 3,044 petitions are filed aunually. Of these 3,044 petitions, 79 are under the same ownership in one county but in multiple municipalities. Under the proposed changes these petitions would not require an additional $20 application fee. Only one order would be issued for the multiple municipalities and the order would only need to be recorded in one county. Previously an order would be issued and recorded for each municipality.

This represents a reduction in state revenue of $1,580 (79 fewer petitions x $20/petition).

This also results in 79 fewer orders to be recorded. The average cost to record an order is $20 so the state would have an anticipated $1,580 reduction in costs (79 orders x $20/order).

The statutes also provide 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 petition to transfer not to exceed the $100 transfer fee. This has no fiscal impact for the state because it does not change the transfer fee amount.

Wisconsin Department of Administration
Division of Executive Budget and Finance
DOA-2047 (R10/2000)

Fiscal Estimate Worksheet — 2007 Session

Detailed Estimate of Annual Fiscal Effect

		LRB Number	Amendment Number if Applicable
☒ Original	☒ Updated		
☐ Corrected	☐ Supplemental	Bill Number	Administrative Rule Number

Subject

Proposed revisions to Subch. III Ch. NR46, including revision to stumpage rates in NR 46.30 (2), requirements/ valuation of timber for catastrophic loss yield/severance taxes, and implementation of 2005 Wis. Act 299 relating to 10 contiguous acre eligibility requirement.

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

None.

Annualized Costs:	Annualized Fiscal Impact on State Funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations — Salaries and Fringes	$	$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations — Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
Total State Costs by Category	$	$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	$	$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
State Revenues — Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Revenue	Decreased Revenue
GPR Taxes	$	$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
Total State Revenues	$	$ -

Net Annualized Fiscal Impact

	State	Local
Net Change in Costs	$ -1,580	$
Net Change in Revenues	$ -1,580	$ -134,200

Prepared By:	Telephone No.	Agency
Joe Polasek	266-2794	Department of Natural Resources
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
	266-2794	05/24/2007

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 (1) (a) to (e), to amend as renumbered NR 46.30 (1) (e), to amend NR 46.15 (25) and NR 46.16 (5), to repeal and recreate NR 46.30 (2) (a) to (d), and to create NR 46.16 (1) (e), NR 46.23 (5) and NR 46.30 (1) (a) and (f) relating to the administration of the Forest Crop Law 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.

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

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. ~~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 ~~10~~ 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 ~~land~~owner on forms provided and verified by department appraisal. The ~~land~~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 _____.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____.
Scott Hassett, Secretary

(SEAL)