

SUBJECT: Adoption of Board Order FR-09-09, revisions to NR 46 relating to the administration of the Managed Forest Law and Forest Crop Law.

FOR: JUNE 2009 BOARD MEETING

TO BE PRESENTED BY: Kathryn Nelson, Chief, Forest Tax Section, Bureau of Forest Management

SUMMARY:

The Department requests adoption of the proposed stumpage rate changes in NR 46.30(5), changes in the application criteria related to land eligibility and multiple municipalities in NR 6.16 (5), and deadline changes related to submission of management plans and supporting documents in N§ 46.18 (5).

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 (e), and create NR 46.30 (f) to (g) to revise the stumpage values to be used in calculating severance taxes and yield taxes for timber harvested during the period of November 1, 2009 and October 31, 2010. Thirteen separate zones reflect varying stumpage values for different species and products across the state.

Average prices decreased statewide for all timber products, resulting in a decrease of 11% for sawtimber, 7% decrease in pulpwood, 5% decrease for mixed products and a 2% decrease for piece products.

Petitions would be submitted by municipality. Lands that are not 10 acres and 80% productive may be added to contiguous lands in adjacent municipalities.

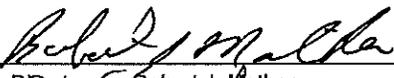
Deadline dates are established for management plans to be submitted for review and deadline dates are established for completed management plans and entry packets to be submitted to the DNR.

RECOMMENDATION: Adopt Board Order FR-09-09, revisions to NR 46 relating to the administration of the Managed Forest Law.

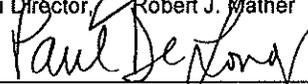
LIST OF ATTACHED MATERIALS:

- | | | | | | |
|----|-------------------------------------|---|-----|-------------------------------------|----------|
| No | <input type="checkbox"/> | Fiscal Estimate Required | Yes | <input checked="" type="checkbox"/> | Attached |
| No | <input checked="" type="checkbox"/> | Environmental Assessment or Impact Statement Required | Yes | <input type="checkbox"/> | Attached |
| No | <input type="checkbox"/> | Background Memo | Yes | <input checked="" type="checkbox"/> | Attached |

APPROVED:


Bureau Director, Robert J. Mather

6/8/09
Date


Administrator, Paul J. DeLong

6/10/09
Date


Secretary, Matt Frank

6-10-09
Date

cc: Laurie J. Ross - AD/8
Quinn Williams - LS/8

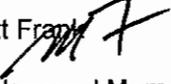
Paul DeLong - AD/8
Kathy Nelson - FR/4

Robert Mather - FR/4

CORRESPONDENCE/MEMORANDUM

DATE: June 8, 2009

TO: Christine L. Thomas, Chair
Jonathan P. Ela, Vice-Chair
John W. Welter, Chair (Land Management, Recreation and Fisheries/Wildlife Committee)

FROM: Matt Frank 

SUBJECT: Background Memo Relating to Changes in NR 46

Subject/Objective of the Proposed Rule

Amendments to NR 46 to address the annual adjustments of timber stumpage values and other administrative changes relating to the Managed Forest Law (MFL).

1. Why is the rule being proposed?

Changes to NR 46 are done annually to update the stumpage values used to collect yield taxes for lands entered under the Forest Crop Law (FCL) and Managed Forest Law (MFL) programs. Additional changes to streamline the MFL program are being done to clarify how the department will administer the entry of lands that span municipal lines, create a draft deadline date for plans submitted for the current July 1 deadline and change the deadline for when completed and approved management plans are returned back to the department.

2. Summary of the RuleAnnual Stumpage Rates

Amendments to NR 46 occur on an annual basis to update timber stumpage values. Section 77.06(2) and 77.91(1), Wis. Stats. require that the department establish stumpage rates used in calculating severance and yield taxes on timber harvested from land enrolled in the Forest Crop Law (FCL) and Managed Forest Law (MFL). The rule would repeal and recreate NR 46.30(2)(a) to (e) and create NR 46.30(2)(f) to (g) to revise the stumpage rates used in calculating severance taxes and yield taxes for timber harvested during the period of November 1, 2009 and October 31, 2010. Thirteen separate zones reflect varying stumpage rates for different species and products across the state. The average change from the current rate is an 11% decrease for saw timber, a 7% decrease in pulpwood, a 5% decrease in mixed products, and a 2% decrease in piece products. Private timber sales were used in calculating the proposed stumpage rates, as well as many comments from the public hearing and comment period. Two new stumpage tables are created to collect stumpage and yield taxes if the timber is sold by weight (tons). The new tables also include stumpage values for biomass.

The new tables based on weight (tons) are being included in NR 46 to reflect the business processes of Wisconsin's mills. Many pulp mills purchase pulpwood products based on weight instead of the measured cordwood volume. Landowners who are paid by weight from the mill will no longer need to convert their weight to cords for reporting their harvested volumes when under the FCL or MFL program.

Multiple Municipalities

Changes to NR 46.16(5) would redefine when MFL entries will include multiple municipalities. 2005 Wisconsin Act 299 had removed the eligibility requirement that lands must consist of at least 10 contiguous acres in a single municipality. With the municipal line requirement removed, lands that span municipal lines, including township, village, city and county lines, may be entered into the MFL program as long as they meet eligibility requirements.

DNR removed the NR 46 statements to eliminate municipal lines in 2007 to comply with 2005 Wisconsin Act 299. Removing of this language in administrative code caused all lands that are applied for entry in one year by the same owner to be entered under the same order number. Landowners who have lands in separate counties are required to have one application and one management plan. Difficulties rise when lands in different counties (for example Ashland, Price, Taylor and Marathon Counties) are entered into the MFL program as one entry. Certified plan writers are not certain how to charge for management plan writing services and DNR Foresters are uncertain how the lands will be administered.

Since it appears that the legislative intent was to allow a landowner's adjacent lands that do not meet the eligibility requirements per municipality to be entered under MFL, an argument can be made that a landowner's land that does meet the eligibility requirement per municipality can and should be entered under its own MFL order.

To simplify entry and administration of MFL land, the rule change would require entries of land per municipality except in cases where adjacent lands must cross municipality lines to meet eligibility requirements.

Management Plan Deadline Dates

Finally, changes to NR 46.18(5)(a)1., NR 46.18(5)(a)2. and NR 46.18(a)3. would change the dates when management plans received by the July 1 application deadline would need to be returned to the department for approval. Currently certified plan writers must submit a completed and approved management plan to the department by the second July 1 after the landowner's initial application is received by the department. A high percentage of the plans prepared by certified plan writers need minor adjustments or corrections before they can be approved. Creation of a draft deadline plan deadline date would allow for any corrections to be made prior to the final deadline. This change to NR 46 suggests a June 1 draft deadline date, with completed and approved plans to be returned on or before August 15. These deadline dates increase the time available for certified plan writers to finalize their work.

Landowners with management plans prepared by DNR foresters must currently return their signed management plans by August 1. A change in this deadline to August 15 is proposed to make the certified plan writer and DNR deadliness the same.

3. How does this proposal affect existing policy?

The change to stumpage rates will allow for current prices to be used when collecting severance and yield taxes from FCL and MFL lands. With fluctuating markets, obtaining the most current data is important when charging forest tax law landowners severance and yield taxes on timber harvested from their properties.

Changes to how the department administers MFL entries that span municipal lines will be made easier in many ways. Landowners will be able to work with their local DNR foresters and certified plan writers for the lands in the counties in which they lie.

Changes to the deadline dates will allow for the July 1 and May 15 deadline dates to be treated similarly. The June 1 deadline date creates more structure for submittal of plans, dates when reviews must be completed, and dates when completed and approved plans must be returned. These dates would allow for an easier flow of work to proceed from the certified plan writer to the DNR forester in order to enter private lands under the MFL program.

4. Hearing Synopsis.

Public hearings were held on May 13, 2009 in four locations throughout the state. Hearings were held in the following locations:

- Madison – 2 appearances
- Eau Claire – 0 appearances
- Stevens Point – 7 appearances
- Green Bay – 1 appearance

Written comments were received through May 29, 2009. All public comments are summarized in the attached document.

5. Information on environmental analysis, if needed.

An environmental analysis is not needed with this rule.

6. Final Regulatory Flexibility Analysis on Small Businesses.

This rule has some impact on certified plan writers. Certified plan writers are private foresters who write management plans for landowners entering into the MFL program. NR 46.18(5) is establishing a deadline date for management plans and supporting documents to be submitted to the department for its initial review on or before June 1. Final plans and supporting documents must be returned to the department by August 15.

Certified plan writers will have more time and structure to meet deadlines and assist their clients with entry into the MFL program. It will also give the department time to review the plan to determine eligibility requirements and sound forestry practices.

Prior to the proposal to create the June 1 deadline the department required that completed plans be submitted to the department by July 1. While most certified plan writers worked with department foresters to complete their work, many certified plan writers submitted their work right at the deadline date. Some of these plans were incomplete and needed revisions well past the July 1 deadline. A date for certified plan writers to submit work for the department's initial review will allow for additional time to make any needed corrections and allow landowners to enter lands into the managed forest law program in a timely manner. Certified plan writers did not comment on the regulations requiring plans and supporting documents to be submitted by June 1.

Certified plan writers will be able to charge appropriately for management plan writing services where multiple management plans are required that do not lie adjacent to each other.

Certified plan writers will benefit from having a draft deadline date for submitting management plans for first review on June 1. DNR foresters will benefit from having a 45 day review period. Certified plan writers will have an additional benefit with having another 30 days to make any plan amendments, obtain landowner signatures and return completed and approved management plans back to the department by August 15. DNR foresters will benefit by having additional time to complete management plans and obtain landowner signatures for any plans the department is required to write.

7. Statutory Authority

Chapter 77, Wis. Stats. authorizes the Managed Forest Law program and procedures.

Public Comment

Note: People who submitted public comments will receive a direct response to follow up on their comment or to thank them for submitting price data.

1. Jere Hamel – Futurewood Corporation

Comment(s):

- a). Mr. Hamel submitted a number of spreadsheets with current prices by specie and zone.

Result:

- a). The Department used Mr. Hamel's prices to assist in setting stumpage values.

2. Scott Sawle – Rockbridge Sawmill

Comment(s):

- a). Suggested the red oak log price be lowered for Zone 9.

Result:

- a). Lowered the price from \$348.21 to \$250.00.

3. Todd Pond – Futurewood Corporation

Comment(s):

- a). Zone 7 sugar maple and red oak log prices should be closer to \$250/MBF and \$175-\$200/MBF respectively.
- b). Zone 7 ash and basswood should be closer to \$50-\$75/MBF.
- c). Cherry logs not selling.
- d). Zone 7 aspen should be \$12-\$20.
- e). Zone 7 birch should be in the \$20 per cord range.
- f). Inconsistencies between cord product and cord product by weight.

Result:

- a). Lowered Zone 7 sugar maple log value from \$455.16/MBF to \$350/MBF and lowered red oak log value from \$303.50/MBF to \$250/MBF.
- b). Lowered Zone 7 ash log value from \$207.30/MBF to \$133.00/MBF and basswood log value from \$204.43/MBF to \$166/MBF.
- c.) Lowered Zone 7 cherry log value from \$345.01/MBF to \$332/MBF.
- d). Lowered Zone 7 aspen pulp price from \$29.99/cord to \$25.00/cord.
- e). Lowered Zone 7 birch pulp from \$32.92/cord to \$29.00/cord.
- f). Corrected inconsistencies between tables.

4. Juris Repsa – Bell Timber Inc.

Comment(s):

- a). Piece products stumpage table antiquated and not accurate. Should be eliminated.
- b). Mixed product by weight table could supplant the piece product table when buying utility poles.
- c). Mixed product by cord price differences between Zones 6, 7, 10, and 11 have large differences.
- d). Submitted price spreadsheet for the new cord products by weight table.
- e). Submitted price spreadsheet for pulpwood.

Result:

- a). Will re-examine the need for tables during upcoming re-examination of stumpage rate process.
- b). Adjusted mixed product by cord prices to be more consistent region to region.
- c). The Department used the data to assist in setting stumpage values.

5. Dennis Waterman

Comment(s):

- a). Commented that log prices for Zones 10, 11, and 12 should be lowered by at least 15%. Red oak should be reduced 30%.
- b). Pointed out inconsistencies between cordwood table and cordwood weight table.

Result:

- a). The Department used the data to assist in setting stumpage values.
- b). Corrected inconsistencies between tables.

6. Robert Huray – Futurewood Corporation

Comment(s):

- a). Mr. Huray commented on 8 prices in Zone 10.
- b). Pointed out inconsistencies between cordwood table and cordwood weight table.

Result:

- a). The Department used the data to assist in setting stumpage values.
- b). Corrected inconsistencies between tables.

7. Nancy Bozek – Wisconsin Woodland Owners Association

Comment(s)

- a). Questioned the process by which the initial stumpage rates are calculated.
- b). DNR acknowledges the potential confusion for landowners.
- c). Commented that the definition of biomass too restrictive and that landowners should be allowed to pay yield taxes based on the end use product.
- d). Comments that data collected may not be statistically sound.

- e). Comment that the Department is taking too broad of an approach for determining the biomass rate and suggested that landowners will be paying 25% of their income to yield tax since average prices for biomass are \$1.00 per ton.
- f). Commented that rates are being applied without a "test of reasonableness".
- g). Commented that WWOA does not support taking the creation of stumpage rates out of the rule making process.
- h). Supports change to the multiple municipality requirements.
- i). Suggests Certified Plan Writers be required to submit management plans by August 15.

Result:

- a). The Department will initiate the process by which to discuss possible revisions to the manner in which proposed stumpage rates are calculated.
- b). Taking creation of stumpage rates out of rule making process not proposed.
- c). No action taken on recommendation. NR 46 has definitions on sawlogs, piece products and cordwood. NR 46 does not state that yield taxes are paid based on the end use of the product. The definition of biomass was changed to small woody material to reflect a size class that is not currently defined in NR 46.
- d). The Department agrees and must still use the data that is submitted for calculation of annual stumpage rates.
- e). The Department suggested a price of 25¢ per ton as a starting point for taking the stumpage rates to public hearing because no data was available for creating this new table. The 25¢ per ton rate was the average rate that industrial landowners had reported to the Forest Tax Section. Landowners will pay 5% of the NR 46 stumpage rates when paying yield tax and 10% when paying severance tax under the Forest Crop Law. The biomass rate (now small woody material) was updated to \$1.00 per ton.
- f). The public hearing and comment process provided the test of reasonableness. The stumpage rate tables were adjusted prior to submittal of the final rule proposal. DNR will look at providing an opportunity for DNR foresters to review the proposed stumpage rates prior to requesting permission to take the annual stumpage rates to public hearing.
- g). Reference is made to 2007 AB 735 and 2007 SB 438 that proposed taking the stumpage rate calculations out of the rule making process in order to use more timely data in determining the annual stumpage rates. These proposals were statutory proposal and were not a part of this rule proposal package. No action was taken on this comment.
- h). Acknowledged support for the proposed rule change on multiple municipalities.
- i). Acknowledged support for the deadline dates for certified plan writers and landowners to submit final entry packets for entry into the Managed Forest Law program.

8. Richard Conner Jr. – Pine River Lumber Co. LTD.

Comment(s)

- a). Questioned the process by which the initial stumpage rates are calculated.

Result:

- a). The Department will initiate the process by which to discuss possible revisions to the manner in which proposed stumpage rates are calculated.

9. Steve Kariainen – Louisiana Pacific Corporation

Comment(s)

- a). Pointed out the stumpage rates expressed in tons seems to be based on the actual 2009 cordwood rates, not the 2010 proposed rates.

Result:

- a). Corrected inconsistencies between tables.

10. James Hoppe – Packaging Corporation of America

Comment(s)

- a). Submitted comments on a number of price jumps.
- b). Questioned the process by which the initial stumpage rates are calculated.

Result:

- a). The Department used the data to assist in setting stumpage values.
- b). The Department will initiate the process by which to discuss possible revisions to the manner in which proposed stumpage rates are calculated.

11. Earl Gustafson – Wisconsin Paper Council

Comment(s)

- a). Proposed definition of “Biomass” is appropriate and should be retained.
- b). Supports comments submitted by James E. Hoppe on behalf of Packaging Corporation of America.
- c). The Department may want to consider a “Technical Conference” on stumpage rates.

Result:

- a). The Department changed the word “biomass” to “small woody material” in response to other public comments that our proposed definition conflicted with the definition of biomass in s. 196.378(1)(ar), Wis. Stats.
- b). The Department will initiate the process by which to discuss possible revisions to the manner in which proposed stumpage rates are calculated.
- c). The Department will contact Mr. Gustafson to discuss his comments further.

12. Scott Henker – Plum Creek

Comment(s)

- a). Recommends “biomass” be replaced with “fine woody debris”.

Result:

- a). Department will use the phrase “fine woody material”.

13. David Donovan – Xcel Energy

Comment(s)

- a). Recommends “biomass” be replaced with “fine woody debris”.

Result:

- a). Department will use the phrase “fine woody material”.

14. Kristine M. Krause – WE Energies

Comment(s)

- a). Recommends “biomass” be replaced with “fine woody debris”.

Result:

- a). Department will use the phrase “fine woody material”.

15. Thomas Jacobs – Louisiana Pacific

Comment(s)

- a). Commented on the use 128 cubic feet to define a cord.
- b). Suggested a reduction of all stumpage rates of 10% statewide.

Result:

- a). The Department has used 128 cubic feet of to represent a cord of wood. This definition is found in the Second College Edition of the American Heritage Dictionary.
- b). Changes to stumpage rates were made based on all input gathered from the public hearing and comment period.

16. Lee Herek

Comment(s)

- a). Comments regarding the proposed stumpage rates and how the figures are calculated.

Result:

- a). The Department will initiate the process by which to discuss possible revisions to the manner in which proposed stumpage rates are calculated.

17. Jerry Knuth – Wisconsin Wildlife Federation

Comment(s)

a). Wisconsin Wildlife Federation just starting to research the proposed rule and may comment in the future.

Result:

a). No action needed.

18. Tim Nicklaus – Kretz Lumber Company Inc.

Comment(s)

a). Comments on log prices.

Result:

a). The Department used the comments to assist in setting stumpage values.

19. Department Foresters provided additional information on current stumpage prices and suggestions on wording of other NR 46 proposals. These adjustments were taken into account when preparing the final rule proposal.

Fiscal Estimate — 2009 Session

- Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number FR-09-09

Subject

Proposed revisions to Subch. III Ch. NR46, including revision to stumpage rates in NR 46.30 (2), and procedure changes in NR 46.15(5) and NR 46.18(5).

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

Assumptions Used in Arriving at Fiscal Estimate

A. Annual Stumpage Rates

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.

There will be a decrease in revenues to local municipalities. The average statewide prices for sawlogs have decreased 11%, with a range of a 2% increase to a 31% decrease. The average statewide prices for cords have decreased 7%, with a range of a 2% increase to a 21% decrease. Prices for mixed products (mixture of sawlogs and cords for red pine, white pine and spruce) decreased 5%, with a range of a 180% increase and a 20% decrease. Piece products (posts and poles) had a 2% decrease in prices, with a range of no increase to a 19% decrease.

While the statewide averages increased slightly, there are fluctuations between market zones and individual prices. Of all total 629 prices calculated, 102 (16%) increased, 238 (38%) decreased and 289 (46%) stayed the same.

If the same amount of harvesting is done in CY 2010 as in CY 2008, the yield tax collected will be \$1,613,638.69. There will be a decrease \$120,840 in yield taxes collected in CY 2010 (\$1,734,479 - \$1,613,638 = \$120,840.)

Long-Range Fiscal Implications

None.

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

Fiscal Estimate — 2009 Session

**Page 2 Assumptions Narrative
Continued**

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number FR-09-09

Assumptions Used in Arriving at Fiscal Estimate – Continued:

B. Multiple Municipalities

The proposed rule will change petition requirements to streamline the administration and processing of new MFL entries. The rule would allow entries of MFL lands and require that lands that cross municipal boundaries be entered under their own order numbers. These changes will have no state or local fiscal effect.

C. Management Plan Deadlines

The proposed rule changes the deadline for certified plan writers (CPWs) and DNR foresters to submit completed and approved management plans. These changes will have no state or local fiscal effect.

Fiscal Estimate Worksheet — 2009 Session
 Detailed Estimate of Annual Fiscal Effect

Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number FR-09-09

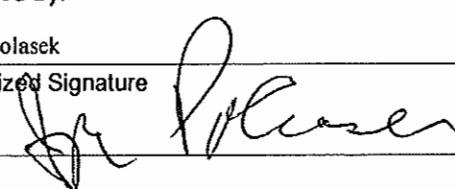
Subject
 Proposed revisions to Subch. III Ch. NR46, including revision to stumpage rates in NR 46.30 (2).

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:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
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			
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	\$ 0	\$ 0
Net Change in Revenues	\$ 0	\$ (120,840)

Prepared By: Joe Polasek	Telephone No. 266-2794	Agency Department of Natural Resources
Authorized Signature 	Telephone No. 266-2794	Date (mm/dd/ccyy) 06-15-09

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

The Wisconsin Natural Resources Board proposes an order to amend NR 46.16 (5), amend NR 46.18(5)(a)1., NR 46.18(5)(1)2., NR 46.18(5)(a)3. repeal and recreate NR 46.30(2)(a) to (e) and create NR46.30(2)(f) to (g) relating to the administration of the Forest Crop Law and Managed Forest Law.

FR-09-09

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. Section 77.82 gives implicit authority the department to create rules for processing petitions.

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 NR 46.30(2)(a) to (e) and creates NR 46.30(2)(f) to (g) to revise annual stumpage values used to calculate severance and yield taxes due on timber cut during the period from November 1, 2009 through October 31, 2010. Two new stumpage tables are created to represent new stumpage values used to calculate severance and yield taxes due on timber if the timber is sold by weight (tons). Thirteen separate zones reflect varying stumpage values for different species and products across the state.

Timber prices have been variable from 2007 through 2008. The average statewide prices for sawlogs have decreased 11%, with a range of a 2% increase to a 31% decrease for individual severance and yield schedule zones. Individual species prices ranged greatly, with some species dropping in price 71% and other species increasing in price by 82%. Many of the species that decreased were commonly harvested species, such as red oak and sugar maple, while species that increased in price were not commonly harvested, such as yellow birch.

The average statewide prices for cords have decreased 7%, with a range of a 2% increase to a 21% decrease for individual severance and yield schedule zones. Individual species prices ranged greatly, with some species dropping in price 70% and other species increasing in price by 100%. Increases in pulpwood prices were mostly for firewood.

The average statewide prices for mixed products (mixture of sawlogs and cords for red pine, white pine and spruce) have decreased 5%, with a range of a 180% increase and a 20% decrease for individual severance and yield schedule zones. Increases in price were seen in eight market zones for individual species, most likely due to increase awareness and use of this product code by foresters who report the data.

The average statewide prices for piece products have decreased 2%, with a 0% increase and a

19% decrease for individual severance and yield schedule zones.

While the statewide averages increased slightly, there are fluctuations between market zones and individual prices. Of all total 629 prices calculated, 102 (16%) increased, 238 (38%) decreased and 289 (46%) stayed the same.

Timber harvest volumes are down since CY 2007 by the following amounts:

Timber Product	% Change
Cordwood	Down 11%
Fuelwood	Down 5%
Sawlogs	Down 11%
Mixed Product	Up 510%
Piece Products	Down 43%
Christmas Trees	Down 16%

Reporting of mixed products increased most likely due to the awareness that private landowners may sell red pine, white pine and white spruce in this fashion.

The severance and yield tax collected in CY 2008 was \$1,734,479. This value is 17% lower than it was in CY 2006. If harvest volumes remain the same in CY 2010 as in CY 2008, a total of \$1,613,638.69 will be collected in yield and severance taxes. This represents a decrease of 7% of revenues for local municipalities.

Amendments to petition requirements in NR 46.16 (5): Petition requirements are being changed to streamline the administration and processing of new MFL entries.

Currently, NR 46.16 (5) requires that *[A]ll eligible MFL land under the same ownership, when applied for designation in the same year, shall be designated under the same order of designation.* This rule, in effect, requires that lands that are not adjacent to each other, including lands that lie in different counties in the state, are entered under the same MFL order.

2005 Wisconsin Act 299 had removed the eligibility requirement that lands must consist of at least 10 contiguous acres in a single municipality. With the municipal lines requirement removed, lands that span across municipal lines, including township, village, city and county lines, may be entered into the MFL program as long as they meet eligibility requirements (i.e. are 10 acres and 80% productive).

DNR in kind removed statements to eliminate municipal lines in NR46. This change caused lands that lie in different parts of the state to be entered under the same MFL order. Landowners, DNR Foresters and Certified Plan Writers are confused with who is responsible for preparing and reviewing these MFL entries.

Since it appeared that the legislative intent was to allow a landowner's adjacent lands that do not meet the eligibility requirements per municipality to be entered under MFL, an argument can be made that a landowner's land that does meet the eligibility requirement per municipality can and should be entered under its own MFL order.

To simplify entry and administration of MFL lands DNR would allow entries of land per municipality except in cases where lands must cross municipality lines to meet eligibility

requirements.

Amendments to management plan requirements in NR 46.18 (5): Deadlines to submit management plans for DNR approval are being changed to make the two application deadlines similar to each other.

Currently certified plan writers (CPWs) must submit a "completed and approved management plan to the Department by the 2nd July 1 after the landowner's initial application is received. A high percentage of the CPW prepared management plans need minor adjustments or slight corrections before they can be approved. Creation of a draft plan deadline date would allow for any corrections to be made prior to the final deadline. This change to NR 46 suggests a June 1 draft deadline date and allows "completed and approved" plans to be returned on or before August 15. These deadline dates increase the time available to CPW's to finalize their work.

Landowners with management plans prepared by DNR foresters must return their signed plans by August 1. A change in this deadline to August 15 is proposed to make the certified plan writer and DNR deadline the same for landowners to turn in completed management plans.

Comparison of Federal Regulations: There are no known federal rules which apply to stumpage rates or Managed Forest Law petitions. There are no known federal rules that define ownerships. There are no specify deadlines for submittal of management plans for MFL designation.

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 increase in cost associated with the increase in yield tax on MFL and severance tax on FCL based on the average increase in stumpage rates proposed for both pulpwood (1% increase) and saw timber (3% increase). Actual cost could be an increase or decrease depending on the specific species, product and zone.

Changes associated with submitting and approving management plans prepared by certified plan writers and DNR foresters will have no fiscal effect and allow additional time for plans to be written and approved.

Summary of factual data and analytical methodologies: Stumpage rate data is collected from Department Foresters and Cooperating Foresters annually. This data is used to calculate a three year weighted average for each species and product by zone. Only data obtained from private timber sales was used in the stumpage rate calculation.

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

2

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

Analysis to determine effect on small business: A review of the law shows the impact on small business. The actual impact is dependant on the amount of 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) that 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 sound forest management practices that must be completed during the order period to ensure and maintain a healthy stand of timber.

Agency Contact Person: Kathryn J. Nelson, Forest Tax Section Chief
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SECTION 1. 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. 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. This provision shall take effect for MFL petitions received for the July 1, 2010 petition deadline.

SECTION 2. NR 46.18 (5) (a)1. is amended to read:

NR 46.18 (5)(a)1. Management plans prepared by an independent certified plan writer shall be approved by the department, signed by the landowner, and submitted to the department forester no later than July 4 August 15 of the year in which the order of designation will be issued. The department shall deem a management plan completed if all the following apply:

- a. The management plan packet was submitted to the department for review on or before June 1.
- b. The management plan includes all requirements under subs. NR 46.18 (1) to (3).
- c. The department has approved the management plan.
- d. The owner has signed the management plan.

SECTION 3. NR 46.18 (5)(a) 2. is amended to read:

NR 46.18 (5)(a)2. As a condition of designating the land, the owner shall sign the department prepared and approved management plan and return it to the department no later than August 15 ~~August 4~~ of the year in which the order of designation will be issued unless otherwise specified by the department. The petitioner shall pay the plan preparation fee no later than October 1 of the year in which the order of designation will be issued.

SECTION 4. NR 46.18 (5)(a) 3. is amended to read:

NR 46.18 (5)(a)3. Failure to submit a management plan prepared by an independent certified plan writer no later than August 15 ~~July 4~~ or return the signed department prepared management plan no later than August 15 ~~August 4~~ or a later date agreed to by the department will result in a denial of the petition.

Section 5. NR 46.30 (2) (a) to (e) 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).

2010 Rates - Effective Nov. 1, 2009

	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
Aspen	40.00	40.00	85.00	61.00	53.00	59.00	61.00	59.00	56.00	82.00	95.00	58.00	57.00
Ash	100.00	120.00	110.00	143.00	80.00	126.00	133.00	120.00	142.00	131.00	137.00	110.00	80.00
Basswood	130.00	110.00	165.00	156.00	107.00	144.00	166.00	123.00	100.00	130.00	113.00	117.00	104.00
Birch													
White	110.00	123.00	139.00	152.00	50.00	66.00	225.00	64.00	76.00	172.00	71.00	89.00	93.00
Yellow	200.00	279.00	266.00	105.00	229.00	229.00	192.00	98.00	252.00	219.00	116.00	69.00	112.00
Cedar	80.00	100.00	79.00	110.00	60.00	61.00	80.00	80.00	NA	80.00	80.00	80.00	80.00
Cherry	200.00	450.00	400.00	308.00	331.00	536.00	332.00	330.00	484.00	325.00	329.00	284.00	378.00
Elm	50.00	40.00	119.00	50.00	43.00	57.00	50.00	112.00	56.00	89.00	24.00	60.00	60.00
Fir	NA	50.00	50.00	94.00	NA	50.00	90.00	NA	NA	28.00	110.00	100.00	100.00
Hemlock	NA	52.00	53.00	100.00	NA	NA	70.00	NA	NA	300.00	100.00	57.00	57.00
Maple													
Sugar	430.00	400.00	440.00	400.00	250.00	319.00	350.00	340.00	386.00	340.00	310.00	328.00	480.00
Red	136.00	180.00	160.00	150.00	140.00	175.00	195.00	170.00	150.00	134.00	130.00	160.00	134.00
Other	125.00	180.00	160.00	150.00	178.00	175.00	195.00	170.00	150.00	150.00	141.00	125.00	155.00
Other Hardwoods	200.00	94.00	88.00	128.00	97.00	140.00	214.00	150.00	114.00	132.00	115.00	124.00	120.00
Oak													
Red	250.00	200.00	313.00	300.00	285.00	250.00	250.00	275.00	250.00	240.00	309.00	292.00	275.00
White	165.00	225.00	151.00	138.00	130.00	224.00	133.00	178.00	173.00	107.00	118.00	139.00	137.00
Other	75.00	185.00	162.00	159.00	150.00	139.00	151.00	138.00	164.00	100.00	122.00	140.00	167.00
Pine													
Jack	72.00	72.00	72.00	72.00	72.00	72.00	72.00	45.00	62.00	135.00	70.00	60.00	70.00
Red	57.00	94.00	74.00	110.00	106.00	63.00	144.00	110.00	129.00	80.00	110.00	82.00	112.00
White	90.00	90.00	148.00	133.00	90.00	114.00	133.00	163.00	104.00	79.00	110.00	95.00	165.00
Spruce	75.00	138.00	45.00	168.00	78.00	99.00	70.00	80.00	62.00	120.00	150.00	49.00	25.00
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
Black Walnut	1,000.00	NA	NA	250.00	968.00	1577.00	252.00	NA	1318.00	NA	400.00	980.00	1395.00

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.

2010 Rates - Effective Nov. 1, 2009

	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
Aspen	8.00	15.00	25.00	22.00	15.00	10.00	25.00	22.00	14.00	24.00	22.00	21.00	23.00
Basswood	12.00	7.00	8.00	8.00	5.00	2.00	10.00	5.00	3.00	13.00	7.00	5.00	3.00
Birch	12.00	12.00	28.00	25.00	14.00	3.00	29.00	23.00	8.00	27.00	21.00	20.00	13.00
Cedar	6.00	12.00	26.00	10.00	8.00	10.00	9.00	10.00	1.00	10.00	8.00	10.00	8.00
Fir	NA	4.00	21.00	13.00	23.00	NA	14.00	22.00	NA	19.00	10.00	20.00	10.00
Hemlock	NA	7.00	9.00	9.00	NA	NA	11.00	13.00	8.00	23.00	10.00	13.00	10.00
Other Hardwood	16.00	14.00	29.00	26.00	18.00	8.00	25.00	25.00	12.00	24.00	23.00	20.00	25.00
Oak	10.00	15.00	19.00	16.00	18.00	5.00	16.00	20.00	14.00	17.00	15.00	14.00	18.00
Pine													
....Jack	15.00	29.00	40.00	32.00	27.00	18.00	28.00	31.00	29.00	35.00	27.00	29.00	33.00
....Red	19.00	20.00	42.00	32.00	41.00	24.00	37.00	33.00	30.00	42.00	30.00	28.00	32.00
....White	15.00	15.00	23.00	21.00	25.00	20.00	14.00	25.00	13.00	18.00	20.00	17.00	22.00
Spruce	17.00	24.00	36.00	33.00	36.00	42.00	32.00	30.00	25.00	31.00	25.00	20.00	20.00
Tamarack	18.00	12.00	23.00	13.00	18.00	13.00	13.00	15.00	19.00	11.00	38.00	20.00	15.00
Fuelwood	10.00	11.00	18.00	9.00	14.00	5.00	5.00	14.00	5.00	3.00	6.00	10.00	4.00

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) Cord products by weight (stumpage value per ton).

2010 Rates - Effective Nov. 1, 2009

	ZONES												
	1	2	3	4	5	6	7	8	9	10	11	12	13
	Wau- kesha	Green Bay	Crivitz	Wausau	Wau- toma	Dodge- ville	Rhinc- Lander	Adams	Richland Center	Hay- ward	Eau Claire	River Falls	Sparta
Aspen	3.56	6.67	11.11	9.78	6.67	4.44	11.11	9.78	6.22	10.67	9.78	9.33	10.22
Basswood	6.23	3.64	4.16	4.16	2.60	1.04	5.19	2.60	1.56	6.75	3.64	2.60	1.56
Birch	5.00	5.00	11.67	10.42	5.83	1.25	12.08	9.58	3.33	11.25	8.75	8.33	5.42
Cedar	3.81	7.62	16.51	6.35	5.08	6.35	5.71	6.35	0.63	6.35	5.08	6.35	5.08
Fir	NA	1.88	9.88	6.12	10.82	NA	6.59	10.35	NA	8.94	4.71	9.41	4.71
Hemlock	NA	2.92	3.75	3.75	NA	NA	4.58	5.42	3.33	9.58	4.17	5.42	4.17
Other Hardwood	6.04	5.28	10.94	9.81	6.79	3.02	9.43	9.43	4.53	9.06	8.68	7.55	9.43
Oak	3.64	5.45	6.91	5.82	6.55	1.82	5.82	7.27	5.09	6.18	5.45	5.09	6.55
Pine													
....Jack	7.06	13.65	18.82	15.06	12.71	8.47	13.18	14.59	13.65	16.47	12.71	13.65	15.53
....Red	8.44	8.89	18.67	14.22	18.22	10.67	16.44	14.67	13.33	18.67	13.33	12.44	14.22
....White	7.14	7.14	10.95	10.00	11.90	9.52	6.67	11.90	6.19	8.57	9.52	8.10	10.48
Spruce	8.50	12.00	18.00	16.50	18.00	21.00	16.00	15.00	12.50	15.50	12.50	10.00	10.00
Tamarack	7.74	5.16	9.89	5.59	7.74	5.59	5.59	6.45	8.17	4.73	16.34	8.60	6.45
Fuelwood ¹	3.77	4.15	6.79	3.40	5.28	1.89	1.89	5.28	1.89	1.13	2.26	3.77	1.51
Fine Woody Material ²	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00

- 1 Pulpwood and larger sized products that are dead or cull material that is not merchantable as pulpwood or sawlogs due to quality.
- 2 Fine Woody Material consists of tops, branches and other materials that are not large enough to market as pulpwood.

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)(d) Mixed products (stumpage value per cord). Only for use with red pine, white pine and spruce.

2010 Rates - Effective Nov. 1, 2009

	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	28.00	25.00	43.00	48.00	47.00	45.00	44.00	44.00	30.00	53.00	50.00	30.00	39.00
White	22.00	24.00	40.00	31.00	31.00	20.00	16.00	37.00	16.00	18.00	40.00	27.00	28.00
Spruce	25.00	31.00	39.00	34.00	38.00	42.00	32.00	35.00	25.00	35.00	29.00	20.00	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)(e) Mixed products by weight (stumpage value per ton). Only for use with red pine, white pine and spruce.

2010 Rates - Effective Nov. 1, 2009

	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	12.44	11.11	19.11	21.33	20.89	20.00	19.56	19.56	13.33	23.56	22.22	13.33	17.33
White	10.48	11.43	19.05	14.76	14.76	9.52	7.62	17.62	7.62	8.57	19.05	12.86	13.33
Spruce	12.50	15.50	19.50	17.00	19.00	21.00	16.00	17.50	12.50	17.50	14.50	10.00	19.00

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.

Section 6. NR 46.30 (2) (f) to (g) are created to read:

NR 46.30(2)(f) Piece products (stumpage value per piece).

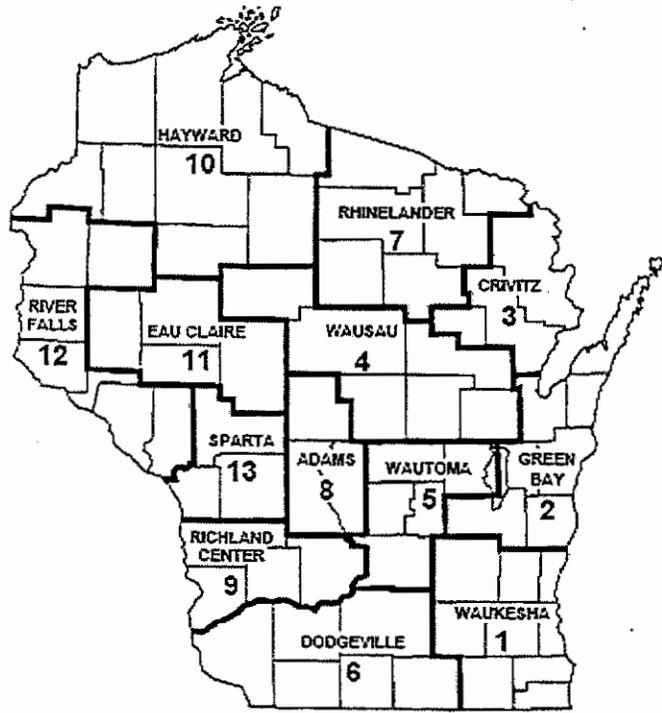
2010 Rates - Effective Nov. 1, 2009

	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	27.30	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	36.00	45.00	39.00	35.80	31.60	31.80
61 and 70 ft.	47.00	41.60	43.00	47.70	43.30	47.00	39.30	47.00	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	6.28	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.

(g) Map of severance and yield schedule zones.

Severance and Yield Schedule Zones



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SECTION 7. 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 8. 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 _____
Matthew Frank, Secretary

(SEAL)