

## Report From Agency

### REPORT TO LEGISLATURE

NR 46, Wis. Adm. Code

Board Order No. FR-45-10  
Clearinghouse Rule No. 11-013

#### Basis and Purpose of the Proposed Rule

Amendments to NR 46 are required as a result of 2009 Wisconsin Act 365 and as needed to effectively administer the MFL program.

- 1. Repeal Subchapter II regarding the Woodland Tax Law and references to Woodland Tax Law throughout NR 46:** The Woodland Tax Law was a private landowner incentive program that allowed participants to pay reduced property tax while they grew trees for harvest. A management plan was developed for each parcel enrolled in the program that required harvesting of timber. Enrollment in Woodland Tax Law was for a 15 year period. Woodland Tax Law was repealed when the Managed Forest Law was enacted in 1985. The last Woodland Tax Law contacts expired on December 31, 2000. Repealing of this subchapter will eliminate wording in NR 46 for a program that no longer exists. There are no negative impacts to existing participants under Managed Forest Law or Forest Crop Law. Forest landowners wishing to enroll in a forestry tax incentive program may enroll in Managed Forest Law.
- 2. Amend the definition of “incompatible with existing uses of the land.”:** Lands that are considered incompatible with the production of timber products include those lands within a recorded subdivision plat defined under s. 236.02 (12), Stats. or other division of land recorded under s. 236.03 (1), Stats. This proposal eliminates an exception to allow for uniform interpretation and implementation of the rule. Lands that are divided as a subdivision plat are largely held for the purpose of providing land for housing development and do not easily allow for management of forested lands for timber products. Forest Crop Law lands that had subdivision plats created after enrollment into the Forest Crop Law program would no longer be allowed to enroll in Managed Forest Law unless the subdivision plat is vacated under Subchapter VIII, Section 236, Stats., even if there had been no sale of individual subdivision plat lots. There are no lands enrolled under Woodland Tax Law, so provisions relating to this program are no longer pertinent.
- 3. Repeal the definition of “management plan packet.”:** 2009 Wisconsin Act 365 required that Managed Forest Law applications must include all supporting documents, including a management plan, map, forest reconnaissance data, property ownership documents (deeds, land contracts, etc.), tax statement, certified survey maps, and application fee, including a remittance form to properly deposit the application fee. A “management plan packet” is an obsolete phrase since passage of 2009 Wisconsin Act 365. The proposal is to eliminate this phrase from NR 46.
- 4. Amend the wording of NR 46 to replace “petition” and “petitioner” with “application” and “applicant.”:** 2009 Wisconsin Act 365 replaced the words “petition” with “application,” and “petitioner” with “applicant.” The proposal is that NR 46 would use the same wording as in statute.
- 5. Amend the application dates and requirements.** 2009 Wisconsin Act 365 replaced the March 31, May 15 and July 1 application deadlines with a June 1 application deadline.

The statutory change also required that management plans need to be submitted with the application. Independent certified plan writers would continue to provide application and management plan development service to landowners. DNR foresters provide these services in situations where services from independent certified plan writers are not available. Proposed changes to NR 46 would make all dates and requirements for Managed Forest Law applications consistent with new statutory language.

6. **Amend MFL application fees.** Recording fees at local register of deeds offices have increased to \$30.00 per document. The department is required to collect the cost of recording Managed Forest Law documents from landowners as an application fee. The proposal is to increase the application fee from \$20 to \$30 per county for each application.
7. **Repeal NR 46 wording requirements in application forms and management plans.** NR 46 currently lists wording requirements to be used on the application and management plan regarding building characteristics and management plans. Application forms are required to have certain information regarding building characteristics and wording in management plans for landowners to acknowledge that violations of the building requirements may cause lands to be withdrawn from the Managed Forest Law program. These specific wording requirements were inserted into NR 46 at a time when the building provisions were new, however these building provisions have been in effect since 1998. The proposal is to remove the wording requirements from NR 46 so that no one statutory or administrative code provision is highlighted over and above other provisions of the Managed Forest Law.
8. **Amend the certified plan writer program certification requirements.** The department has amended its training requirements according to the skills and training needs of students. NR 46 states the homework required for plan writer certification. Proposed amendments to NR 46 eliminate the specific homework requirements to allow the department to better meet student training needs.
9. **Amend reporting dates as a result of new application deadlines provided for in 2009 Wisconsin Act 365.** Deadlines for certified plan writers to report management plan cost data must be adjusted in order to have new costs available for use for the new Managed Forest Law application dates. The NR 46 proposal will be to move the dates to collect cost data to be one month earlier from May 31 to May 1 of each year.
10. **Require that owners buying lands from large ownerships as defined in NR 46.18(4) provide a management plan within one year of the transfer date.** Historically, the department has written management plans free of charge. This proposal requires that landowners who purchase lands from large ownerships provide a management plan within 1 year of the date of transfer. Landowners would follow the same protocol to obtain the services of a certified plan writer as new enrollees.
11. **Require that owners who no longer meet the qualifications of a large ownership in NR 46.18(4) must provide a management plan within one year of losing large ownership status.** Landowners who no longer qualify as a large ownership as defined in NR 46.18(4) are placed in the small landowner category, requiring that a management plan be developed. Historically the department has written these plans. This proposal would require that landowners who lose their status as a large ownership provide a management plan within 1 year of the date of losing their large ownership status. Landowners would follow the same protocol to obtain the services of a certified plan writer as new enrollees.
12. **Amend wording associated with the alternative withdrawal tax calculation.** Landowners who withdraw lands early from the Managed Forest Law are required to pay

a withdrawal tax based on a formula that multiplies the assessed value, tax rate and years under the law, or based on 5% of the average stumpage value for the market zone. Adjustments to the wording will clarify that the withdrawal tax estimates are not the same as the Department of Revenue withdrawal tax estimates recently created in 2009 Wisconsin Act 365. NR 46 wording changes will also include statutory references regarding renewal of lands under Managed Forest Law.

#### Summary of Public Comments

A public hearing was held beginning at 10 AM on April 13, 2011 at the Marathon County Public Library in Wausau. Forestry Attorney Quinn Williams was the hearing administrator and Kathy Nelson, Forest Tax Program and Policy Chief, provided program expertise.

Three people attended the hearing. The comments from the hearing were favorable toward the proposed rule package; however people attending the hearing spoke more about the MFL Legislative Study Committee recommendations and other topics not associated with the rule package per se.

Written comments were allowed to be received through April 22, 2011; however no written comments were submitted.

#### Modifications Made

No modifications were made to the NR 46 rule package.  
No modifications were requested by the Natural Resources Board.

#### Appearances at the Public Hearing

In support:

Marvin Meier, 4901 Blackberry Dr., Wausau, WI 54401  
Chris Burke, 9676 N. Kruger Rd., Hayward, WI 54843

As interest may appear:

Todd Pond, P.O. Box 531, Merrill, WI 54452

In opposition – none

#### Changes to Rule Analysis and Fiscal Estimate

No changes were made to the rule analysis or fiscal estimate.

#### Response to Legislative Council Rules Clearinghouse Report

All Clearinghouse comments were addressed.

#### Final Regulatory Flexibility Analysis

This rule has some impact on certified plan writers (CPWs). CPWs are private foresters who write management plans for landowners entering into the MFL program.

Management plans are now required with MFL applications, requiring CPWs to adjust the time frame in which to complete work for their clients. Many CPWs have adjusted their work structure

to accommodate the change in ch. 77, Wis. Stats. as a result of 2009 Wisconsin Act 365 already. Impact to CPWs regarding the changes to entry criteria in NR 46 will be minimal.

CPW certification requirements will be amended by NR 46 proposals. The certification requirements relate to the initial training taken by CPW candidates and allow the department additional flexibility to develop the training required to best meet the needs of the candidates. Impacts to CPWs regarding the changes to training requirements will be minimal and affect only CPW candidates during the certification process.

CPWs will be required to report management plan cost data one month early as a result of 2009 Wisconsin Act 365. Impacts to CPWs regarding reporting deadlines will be minimal.

Changes to development of management plans when landowners purchase lands from large landowners or large landowners lose their large landowner status will increase the number of management plans available for development by the private sector.