

CR 85-53

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny  
Secretary

BOX 7921  
MADISON, WISCONSIN 53707

STATE OF WISCONSIN )  
DEPARTMENT OF NATURAL RESOURCES ) SS

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TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Carroll D. Besadny, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. FA-5-85 was duly approved and adopted by this Department on May 22, 1985. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at General Executive Facility #2 in the City of Madison, this 15<sup>th</sup> day of July, 1985.

*Carroll D. Besadny*  
Carroll D. Besadny, Secretary

(SEAL)

5527J

9-1-85

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD  
CREATING RULES

.....  
IN THE MATTER of creating ch. NR 55 .  
of the Wisconsin Administrative Code .  
pertaining to administration of . FA-5-85  
federal payments in lieu of taxes .  
(PILT) on national forest lands .  
.....

Analysis Prepared by Department of Natural Resources

Chapter NR 55, Wis. Adm. Code, specifies the procedures used in the allocation of federal payments in lieu of taxes (PILT) on national forest lands in towns, cities and villages. In interpreting s. 16.54(11), Wis. Stats., as provided under 1983 Wisconsin Act 470, it establishes the conditions of eligibility, the procedure for determining the method of calculating payment in lieu of taxes on national forest lands otherwise due the county, and the procedure for calculating the individual payments to towns, cities and villages.

The federal payment for entitlement lands program (31 USC 6901 et seq.) authorizes the payment in lieu of taxes to counties that contain land owned or acquired by the United States. The calculation of the payment is based on the amount of "entitlement land" in each county, i.e. land owned by the United States which was subject to state or local property taxes prior to federal ownership or acquisition. In particular, 31 USC 6907 authorizes a state to enact legislation which would permit reallocation of PILT payments to smaller units of government. Section 16.54(11), Wis. Stats., directs the reallocation of PILT funds generated by acres of all National Forest land to towns, cities and villages.

Towns, cities and villages, under 31 USC 6907, are eligible for PILT payments generated by National Forest lands if:

- (1) The town, city, or village is located within a county determined under the federal program (31 USC 6901 et seq.) to be eligible for PILT payments; and
- (2) Entitlement forest land is located within the municipality; and
- (3) The town, city or village provides general governmental services.

Chapter NR 55 also sets the procedures for determining the method for calculating payments otherwise due to the counties and specifies the procedure for calculating the individual payments to towns, cities and villages.

The procedure for determining the payment of the overall PILT program is contained in 31 USC 6903. This section specifies that the PILT payment for a county will be the higher of two methods of calculation, "Alternative A" or "Alternative B". The departments redistributes PILT payments for national forest land using the alternative selected by the federal government under 31 USC 6903.

The procedure for calculating the individual federal payments to towns, cities and villages in chapter NR 55 is based on total acres of national forest land rather than entitlement acres. In arriving at that formula, the department reviewed 31 USC 6907 which indicates that any redistribution of PILT funds shall generally reflect the number of entitlement acres within the smaller units of government. Section 16.54(11), Stats. also indicates that the allocation is to be based on the number of acres of national forest land within the town, city or village. While total forest acreage is a more encompassing acreage than entitlement acreage, it "generally reflects" entitlement acreage.

The federal law also provides redistribution shall generally reflect the level of general governmental services provided these forest lands by each municipality. The department has concluded the level of services provided by each municipality is generally equivalent for each acre of forest because of the extremely broad definition of "general governmental services" in 31 USC 6091. That definition, which is contained in the proposed rule, is not limited to any single service, such as transportation, but includes all services without precise definition. Thus the level of services is procedurally equated with total number of acres of national forest lands.

The total PILT payment to each town, city or village is then determined by applying the total number of national forest acres in each unit of government against the total national forest acreage in the county. The product of this percentage and the total amount generated by entitlement forest acreage in the county determines the PILT payment to the town, city or village under s. 16.54(11), Stats.

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Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by ss. 16.54(11) and 227.014(2)(a), Stats., the State of Wisconsin Natural Resources Board hereby creates rules interpreting s. 16.54(11), Stats. as follows:

#### Chapter NR 55

#### Administration of Federal Payments in Lieu of

#### Taxes (PILT) on National Forest Lands

NR 55.01 Purpose and applicability

NR 55.02 Definitions

NR 55.03 Eligibility

NR 55.04 Determination of municipal PILT payments

SECTION 1. Chapter NR 55 is created to read:

NR 55.01 PURPOSE AND APPLICABILITY. The provisions of this chapter apply to towns, cities and villages and establish the procedure for the allocation of federal payments in lieu of taxes (PILT) under the federal payment for entitlement land program (31 USC 6901 to 6907) in accordance with s. 16.54(11), Stats.

NR 55.02 DEFINITIONS. For the purpose of this chapter:

(1) "Entitlement forest land" means national forest land owned by the United States which was subject to state or local property tax prior to acquisition or ownership by the United States.

(2) "Municipality" means town, city or village.

(3) "General governmental services" means services provided by municipalities and include, but are not limited to, public safety, environment, housing, social services, transportation and governmental administration.

(4) "PILT" means federal payments in lieu of taxes under chapter 69 USC 31.

(5) "National forest land" means land owned by the United States and administered by the United States department of agriculture, national forest service.

NR 55.03 ELIGIBILITY. A municipality shall be eligible to receive PILT payments generated by national forest lands if:

(1) The municipality is located within a county determined under chapter 69 USC 31 to be eligible for PILT payments; and

(2) Entitlement forest land is located within the municipality; and

(3) The municipality provides general governmental services.

NR 55.04 DETERMINATION OF MUNICIPAL PILT PAYMENTS. (1) CALCULATION METHOD. The department shall calculate PILT payments to municipalities for each acre of national forest land in the same manner as used under 31 USC 6903 to determine the PILT payments to the county in which the municipalities are located.

(2) LEVEL OF SERVICES. Each municipality eligible for PILT payments under s. NR 55.03 shall be considered to be providing the same level of general governmental services for each acre of national forest land within its boundaries as any other eligible municipality.

(3) MUNICIPAL PAYMENT. The department shall make payment to each municipality eligible for PILT payments under s. NR 55.03 equal to the acreage of national forest land located in the municipality calculated as a percentage of the acreage of national forest land in the county in which the municipality is located.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on April 24, 1985.

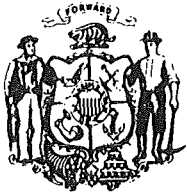
The rules contained herein shall take effect as provided in s. 227.026(1)(intro.), Stats.

Dated at Madison, Wisconsin July 15, 1985

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES  
 By Carroll D. Besadny  
 Carroll D. Besadny, Secretary

(SEAL)

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State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny  
Secretary

BOX 7921  
MADISON, WISCONSIN 53707

July 15, 1985

IN REPLY REFER TO: 1020

Mr. Orlan L. Prestegard  
Revisor of Statutes  
411 West  
C A P I T O L

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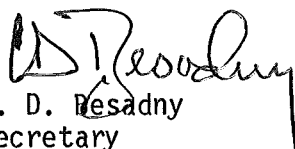
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Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. FA-5-85. These rules were reviewed by the Assembly Committee on Tourism, Recreation and Forest Productivity and the Senate Committee on Energy and Environmental Resources pursuant to s. 227.018, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees is also enclosed.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,

  
C. D. Besadny  
Secretary

Enc.

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