

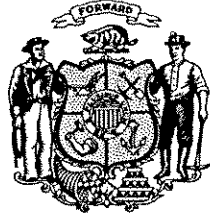
97-152-NE 47-PRIVATE FOREST  
LANDOWNER GRANT REG.

WISCONSIN LEGISLATIVE COUNCIL STAFF



**RULES CLEARINGHOUSE**

Ronald Sklansky  
Director  
(608) 266-1946



David J. Stute, Director  
Legislative Council Staff  
(608) 266-1304

Richard Sweet  
Assistant Director  
(608) 266-2982

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

DEC 1 1990

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 98-176**

AN ORDER to repeal NR 47.06 (2) (f) Note, 47.07 (2) and (3) and 47.56 (1) (b) Note and (d) Note and (2) Note; to renumber NR 47.07 (4), 47.12 (11) to (13), 47.52 (2) to (7) and 47.70 (2) (f) and (g) and (4) (c) and (d); to renumber and amend NR 47.12 (3) and (4); to amend NR 47.004 (2) and (3) (intro.), 47.005 (3), 47.03 (2), 47.06 (1) (intro.) and (2) (intro.), 47.07 (1) (b) to (d), 47.18 (2), 47.20 (1) and (6), 47.53 (2), (3) and (5), 47.54 (1) and (3), 47.55 (1) (a), (2) (intro.) and (3) (a), 47.56 (1) (b) and (d), (2) and (3) (a) 2. and 3., 47.57 (intro.) and (1) and 47.70 (1), (3) (a), (c) and (f) and (4) (a); to repeal and recreate NR 47.58 (2) and 47.70 (4) (b); and to create NR 47.07 (1) (e), 47.52 (8), 47.55 (2) (i), 47.56 (3) (c) and 47.70 (2) (f) and (4) (c), relating to forestry grant programs.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

11-06-98 RECEIVED BY LEGISLATIVE COUNCIL.  
12-07-98 REPORT SENT TO AGENCY.

RNS:AS:kjf;jt

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

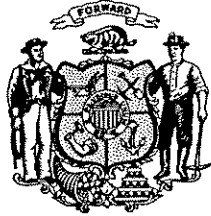
Comment Attached      YES       NO

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## CLEARINGHOUSE RULE 98-176

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### 2. Form, Style and Placement in Administrative Code

- a. A SECTION to repeal s. NR 47.12 (10) should be inserted after SECTION 16.
- b. In s. NR 47.55 (2), "and" in par. (g) should be deleted.
- c. In s. NR 47.56 (3), par. (a) should be renumbered sub. (3) (intro.) and subs. 1. to 4. should be pars. (a) to (d). Paragraph (b) should be renumbered par. (e) and the newly created par. (c) should be par. (f).
- d. In s. NR 47.70 (1), the title should not be in bold print.

#### 4. Adequacy of References to Related Statutes, Rules and Forms

- a. In SECTION 9, "(1)" should be inserted after "47.07."
- b. In SECTION 45, "(1)" should be replaced with "(2)."

#### 5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. In s. NR 47.07 (1) (c), the current rule ends with a semicolon. To change this to a period, striking and underscoring should be used.

b. Section NR 47.18 (2) would be clearer if “; this limit may be lowered” were replaced with “, although this limit may be lowered.”

c. In s. NR 47.20 (6), “approved practices” should be replaced with “approved practice” to be consistent with the text of the current rule.

d. Section NR 47.55 (2) would be clearer if “any of the following” were inserted before the colon.

e. Section NR 47.56 (1) (d) refers to the current department fringe rate percentage. In the current rule, there is a note stating what this percentage is. It would be helpful to at least include information relating to how one determines what the percentage is as well as information about how one may find out the annual county equipment rates.

f. In s. NR 47.56 (2), a comma should be inserted after “equipment.”

g. In s. NR 47.56 (3) (a) 3., the current rule ends with a semicolon.

h. Section NR 47.57 (intro.) would be clearer if written as “~~In selected projects~~ Projects selected for grants under this subchapter; shall relate to urban forestry and the department may give priority to the following listed in no particular order:”.

i. In s. NR 47.70 (1), “fringe benefit” should be replaced with “fringe benefits.” This comment also applies to subs. (2) (f), (3) (c) and (4) (a).

j. In s. NR 47.70 (3) (a), “~~which~~” should be replaced with “~~when~~” to be consistent with the current text.

k. In the last line of s. NR 47.70 (4) (c), “to” should be deleted.

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD  
RENUMBERING, AMENDING AND CREATING RULES

The State of Wisconsin Natural Resources Board proposes an order to repeal NR 47.06(2)(f)note, 47.07(2) and (3) and 47.56(1)(b)note, (d)note and (2)note; renumbering NR 47.07(4), 47.12(11) to (13), 47.52(2) to (7), 47.70(2)(f) and (g), (4)(c) and (d); renumbering and amending NR 47.12(3) and (4); amending NR 47.004(2) and (3)(intro.), 47.005(3), 47.03(2), 47.06(1)(intro.) and (2)(intro.), 47.07(1)(b) to (d), 47.18(2), 47.20(1) and (6), 47.53(2), (3) and (5), 47.54(1) and (3), 47.55(1)(a), (2)(intro.) and (3)(a), 47.56(1)(b), (d), (2), (3)(a) 2. and 3., 47.57(intro.) and (1) and 47.70(1), (3)(a), (c), (f) and (4)(a); repealing and recreating s. NR 47.58(2) and 47.70(4)(b); and creating NR 47.07(1)(e), 47.52(8), 47.55(2)(i), 47.56(3)(c), 47.70(2)(f) and 47.70(4)(c) relating to forestry grant programs

FR-51-98

Analysis Prepared by Department of Natural Resources

Authorizing statute: NR 47 subchapters I,II,III - 16 USC 2101 et seq.; NR47 subchapter V - 16 USC 2101 et seq., s.23.097 Stats; NR 47 subchapter VI - s. 227.11(2)(a), Stats.

Statute interpreted: s. 28.11(5m), Stats.

Chapter NR 47, establishes rules for the administration of forestry grant programs.

NR 47 subch. I, establishes general provisions for all grant programs. The amended rule allows greater flexibility in reporting requirements and conforms with federal requirements for records retention.

NR 47 subchs. II and III, establish provisions to implement the Forest Stewardship grant program and the Stewardship incentive program. The amended rule reflects the changing views of the Coordinating Committee by easing grant guidelines and reflects changes in the federal guidelines.

NR 47 subch. V establishes provisions to implement the urban forestry grant program. The amended rule will allow not-for-profit organizations to receive partial advances of grant funds. Other changes are proposed to conform language to federal requirements, clarify project and cost eligibility, clarify application procedures, clarify payment procedures, correct language changed by reorganization, and correct an omitted eligible applicant.

Section NR 47.70, establishes provisions to implement the County Forest Administrator Grant program. The amended rule reflects a statutory change for a payment of half the annual salary and half fringe benefit costs of the position. Other changes extend the application filing deadline by two months and establish procedures to spend any unused funds the following year or return them.

SECTION 1. NR 47.004(2) is amended to read:

NR 47.004(2) INTERIM REPORTS. Each grant recipient ~~shall~~ may be required to submit to the department at no less than 6 3 month intervals, ~~depending on the project period by written request of the department,~~ one or more interim reports which contain details of progress, findings, problems and other information regarding the status of the project a grant.

SECTION 2. NR 47.004(3)(intro.) is amended to read:

NR 47.004(3) FINAL REPORTS. (intro.) Each grant recipient shall submit a final report to the department within ~~60~~ 90 days after the grant expiration date. The final report shall include the following:

SECTION 3. NR 47.005(3) is amended to read:

NR 47.005(3) RECORDS RETENTION AND AUDITING. The grantee shall retain all records pertaining to its project and make them available to the department on request for ~~one year~~ 3 years from the date of the final payment.

SECTION 4. NR 47.03(2) is amended to read:

NR 47.03(2) Applications for grants shall be received by the department ~~prior to no later than the close of business on November 1 unless otherwise provided for on the application.~~

SECTION 5. NR 47.06(1)(intro.) is amended to read:

NR 47.06(1)(intro.) A project is eligible for funding under this subchapter if the project is capable of and directed towards achieving one or more of the following. Additionally, special emphasis may be placed, on an annual basis, in one of the following areas if designated in the application:

SECTION 6. NR 47.06(2)(intro.) is amended to read:

NR 47.06(2)(intro.) In selecting projects for grant assistance, the department shall give preference to projects which are directed to accomplish one or more of the following+. Preference to any area may be weighted based upon the recommendations of the forest stewardship coordinating committee and acceptance by the state forester. *? still an intro. ;*

SECTION 7. The note following NR 47.06(2)(f) is repealed.

SECTION 8. NR 47.07(1)(b) is amended to read:

NR 47.07(1)(b) The cost of necessary supplies and equipment used exclusively for project-related purposes over its useful life or the cost of that portion of supplies or equipment used for the project;

SECTION 9. NR 47.07(1)(c) is amended to read:

NR 47.07(1)(c) The costs of leased equipment and facilities for the length of the ~~demonstration~~ project; (1)

SECTION 10. NR 47.07(1)(d) is amended to read:

NR 47.07(1)(d) The reasonable value of in-kind contributions by the applicant of labor, equipment or facilities as supported by documentation reflecting specific assignment to the project; (2)

SECTION 11. NR 47.07(1)(e) is created to read:

NR 47.07(1)(e) Contract costs of qualified vendors to perform project activities.

SECTION 12. NR 47.07(2) is repealed.

SECTION 13. NR 47.07(3) is repealed.

SECTION 14. NR 47.07(4) is renumbered NR 47.07(2).

SECTION 15. NR 47.12(3) is renumbered <sup>NR 47.12</sup> (4) and, as renumbered, is amended to read:

NR 47.12 (4) "~~ASCS~~" "FSA" means the U.S. department of agriculture, ~~agricultural stabilization and conservation service~~ farm services agency.

SECTION 16. NR 47.12(4) is renumbered NR 47.12(3).

SECTION 17. NR 47.12(11) to (13) are renumbered NR 47.12(10) to (12).

SECTION 18. NR 47.18(2) is amended to read:

NR 47.18(2) The amount of payment under the program to any one landowner may not exceed \$10,000 in any fiscal year; this limit may be lowered at the recommendation of the forest stewardship coordinating committee with concurrence of the state forester. In the case where an individual is not a sole proprietor but is a partner, corporate shareholder or has ownership interest in another private legal entity, the amount of payment to the individual shall be equivalent to the percentage of ownership the individual holds in ~~such~~ the partnership, corporation or other private legal entity times the payment made to ~~such~~ the partnership, corporation or other legal entity.

SECTION 19. NR 47.20(1) is amended to read:

NR 47.20(1) A landowner wishing to participate in the program shall apply at the ~~ASCS~~ FSA office for the county in which the land is located, on ~~ASCS~~ FSA forms.

SECTION 20. NR 47.20(6) is amended to read:

NR 47.20(6) Upon approval of a practice, the landowner shall be notified in writing by the ~~ASCS~~ FSA. ~~Such~~ The notice shall state that the landowner can begin implementing the approved practices.

SECTION 21. NR 47.52(2) to (7) are renumbered (7) and (2) to (6), respectively, and subs. (4) and (7), as renumbered, are amended to read:

NR 47.52 (4) "Not-for-profit organization" includes ~~approved~~ organizations that meet the requirements of section 501(c)(3) of the United States internal revenue code of 1986 and other ~~not-for-profit organizations~~ local community tree volunteer groups.

(7) "~~District~~" "Region" means one of the ~~6-district~~ 5 regional field administrative ~~offices~~ units of the department.

SECTION 22. NR 47.52(8) is created to read:

NR 47.52(8) "Urban forestry" means tree management, operations and education within cities, villages and other concentrated development.

SECTION 23. NR 47.53(2) is amended to read:

NR 47.53(2) Applicants shall submit applications on the prescribed department forms to the ~~district~~ regional office ~~for the district~~ where the applicant is located or as otherwise described by the department.



SECTION 24. NR 47.53(3) is amended to read:

NR 47.53(3) Applications shall be received by the department ~~district~~ regional office no later than close of business on October 1, unless otherwise provided on the application.

SECTION 25. NR 47.53(5) is amended to read:

NR 47.53(5) Successful applicants shall be notified by the department and sent a project agreement. Work under the project agreement may not proceed until the agreement is signed by the department ~~and the applicant~~ and not before the starting date listed on the project agreement.

SECTION 26. NR 47.54(1) is amended to read:

NR 47.54(1) A grant under this subchapter shall be no more than 50% of actual eligible costs except that no grant may exceed \$25,000 or be less than \$1000.

SECTION 27. NR 47.54(3) is amended to read:

NR 47.54(3) ~~No more than 20% of the~~ The department and the USDA forest service may annually negotiate limits on federal monies available for grants under this subsection that may be used to fund tree planting projects.

SECTION 28. NR 47.55(1)(a) is amended to read:

NR 47.55(1)(a) Municipal governments, towns, counties and not-for-profit organizations are eligible to apply for a federally funded grant under this subchapter.

SECTION 29. NR 47.55(2)(intro.) is amended to read:

NR 47.55(2) ELIGIBLE PROJECTS. (intro.) Requests for grant assistance shall relate to urban forestry and may include, but are not limited to ~~requests for:~~

*any of the following:*  
SECTION 30. NR 47.55(2)(i) is created to read:

NR 47.55(2)(i) Urban forestry operations projects such as planting, pruning, removal and other tree maintenance.

SECTION 31. NR 47.55(3)(a) is amended to read:

NR 47.55(3)(a) Stump ~~or brush~~ removal;

SECTION 32. NR 47.56(1)(b) is amended to read:

NR 47.56(1)(b) The cost of necessary supplies and equipment. Equipment costing more than \$5,000 per unit is not eligible. To be fully eligible project costs under the grant, a capital purchase shall be used exclusively for project-related purposes over its useful life. Nonexclusive capital purchases may be charged as project costs only for that portion of depreciation equitably related to use in project activities.

SECTION 33. The note following NR 47.56(1)(b) is repealed.

SECTION 34. NR 47.56(1)(d) is amended to read:

NR 47.56(1)(d) The reasonable value of in-kind contributions by the applicant of labor, equipment or facilities. Direct costs shall be supported by time sheets, vouchers or similar documentation reflecting specific assignment to the project. Actual fringe benefits may not exceed the current department fringe rate percentage of the direct labor costs claimed. Equipment rental rates may not exceed the county equipment rates established annually by the department of transportation. ← avail. ↗

SECTION 35. The note following NR 47.56(1)(d) is repealed.

SECTION 36. The note following NR 47.56(2) is repealed.

SECTION 37. NR 47.56(2) is amended to read:

NR 47.56(2) ELIGIBLE COSTS, NON-REIMBURSABLE. Reasonable value of donated labor, equipment, supplies, facilities or services are eligible project costs for the purposes of match, but are not eligible for reimbursement. To be fully eligible project costs under the grant, a capital donation shall be used exclusively for project-related purposes over its useful life. Nonexclusive capital donations may be charged as project costs only for that portion of depreciation equitably related to use in project activities. Value of donated labor will be calculated using rates established by the department.

SECTION 38. NR 47.56(3)(a)2. is amended to read:

NR 47.56(3)(a)2. Ordinary operating expenses of local government applicants, also known as indirect costs, such as salaries and expenses of a mayor or city council members, that are not directly related to the project;

SECTION 39. NR 47.56(3)(a)3. is amended to read:

NR 47.56(3)(a)3. Costs for which payment has been or will be received under another federal or state financial assistance program except that community development block grants may be used to match urban forestry grants only when it can be demonstrated to the department's satisfaction that there is a local commitment to, and involvement in, the project.

SECTION 40. NR 47.56(3)(c) is created to read:

NR 47.56(3)(c) Capital purchases that exceed \$5,000.

SECTION 41. NR 47.57 (intro.) is amended to read:

NR 47.57 **Grant selection process.** (intro.) In selecting projects for grants under this subchapter, projects shall relate to urban forestry and the department may give priority to the following listed in no particular order:

SECTION 42. NR 47.57(1) is amended to read:

NR 47.57(1) Applicants with a ~~department~~ an administrative unit, board or commission charged with the development and administration of a comprehensive tree care program.

SECTION 43. NR 47.58(2) is repealed and recreated to read:

NR 47.58(2) PAYMENT. (a) Not-for-profit organizations may request an advance payment of no more than 50% of the grant upon the awarding of the grant.

(b) Each grantee shall submit to the department a final accounting claim for reimbursement, supported by evidence of cost, within 90 days after the grant expiration date.

(c) Final balance payments for not-for-profit organizations that received an advance, and grant payments for all other grantees, shall be made upon approval of the final report and the final accounting claim.

SECTION 44. NR 47.70(1) is amended to read:

NR 47.70(1) **PURPOSE.** The purpose of this section is to establish standards and procedures for implementation of a grant program to contribute funds toward payment of the salary and fringe benefit of a professional forester in the position of administrator or assistant administrator of a county forest.

SECTION 45. NR 47.70(2)(f) and (g) is renumbered to NR 47.70(1)(g) and (h).

SECTION 46. NR 47.70(2)(f) is created to read:

NR 47.70(2)(f) "Fringe benefit" means the total annualized costs of a county for an employee excluding any salary.

SECTION 47. NR 47.70(3)(a) is amended to read:

NR 47.70(3)(a) A county may apply for a grant under the county forest administrator grant program. A county shall include in an application a county board resolution authorizing the application. A county shall file the application with the department no later than ~~November 30th~~ January 31st of the grant year preceding the grant year, except for the grant year the rule becomes effective which the application shall be filed no later than May 1, 1994.

SECTION 48. NR 47.70(3)(c) is amended to read:

NR 47.70(3)(c) Except as provided in par. (d), a grant shall be limited to funding annual salary and fringe benefit for a forester employed by a county.

SECTION 49. NR 47.70(3)(f) is amended to read:

NR 47.70(3)(f) Grants shall be distributed no later than April 15 of the grant year, ~~except for the grant year the rule becomes effective when the grants shall be distributed no later than August 1, 1994.~~

SECTION 50. NR 47.70(4)(a) is amended to read:

NR 47.70(4)(a) An annual grant award to a county may not exceed the lesser of 50% of the position's annual salary or the maximum grant amounts established in par. (b) and fringe benefit. Fringe benefit costs may not exceed 40% of the forester's salary.

SECTION 51. NR 47.70(4)(b) is repealed and recreated to read:

NR 47.70(4)(b) All grant funds received from the department shall be deposited in the county state aid forestry account.

SECTION 52. NR 47.70(4)(c) and (d) are renumbered to NR 47.70(4)(d) and (e) and (4)(e)1. and 3., as renumbered, are amended to read:

NR 47.70(4)(e)1. An annual plan of work is jointly developed by the ~~department's district forestry supervisor, the county forest administrator,~~

~~department's liaison forester and the county forestry committee~~ department and the county.

3. The annual plan of work is approved by the county and the department ~~prior to the beginning of the grant year.~~

SECTION 53. NR 47.70(4)(c) is created to read:

NR 47.70(4)(c) Any grant funds not spent on salary or fringe benefit costs in the grant year shall be identified and deducted from the next year's request. If a county does not participate or is not eligible for the grant the next year, the funds shall ~~to~~ be returned to the department.

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The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on \_\_\_\_\_.

The rules 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.

Dated at Madison, Wisconsin \_\_\_\_\_

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
George E. Meyer, Secretary

(SEAL)

State of Wisconsin  
Department of Natural Resources

**NOTICE TO PRESIDING OFFICERS  
OF PROPOSED RULEMAKING**

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Natural Resources Board Order No. FR-4-98

Legislative Council Rules Clearinghouse Number 97-152

Subject of Rules Administration of the private forest landowner grant program.

Date of Transmittal to Presiding Officers October 29, 1998

**Send a copy of any correspondence or notices pertaining to this rule to:**

**Carol Turner, Rules Coordinator  
DNR Bureau of Legal Services  
LC/5, 101 South Webster**

**266-1959**

## REPORT TO LEGISLATURE

NR 47, subch. VII, Wis. Adm. Code  
Administration of the private forest landowner grant program

Board Order No. FR-4-98  
Clearinghouse Rule No. 97-152

### Statement of Need

The proposed rule provides procedures for implementing the legislative language contained in the 1997-98 budget establishing a forestry assistance grant program for private forest landowners. The rule provides a fair and equitable system for landowners to apply for and receive grants. The proposed rule also details the components of approved land practices and the method of payment to landowners.

The rule addresses the need to assist private forest landowners to implement long-term sustainable forest management practices that contribute to the economy, health and well-being of the state's natural resources. Landowners are expressing an interest in implementing management practices that provide long-term benefit, but cannot financially afford to complete these practices on their own. Federal programs that have provided assistance to private forest landowners in the past have dwindled and now are insufficiently funded to assist most of the interested landowners. These programs are administered through a variety of agencies, and often have conflicting practices or lack of continuity.

### Modifications as a Result of Public Hearings

As a result of public comments, the following changes were made in the administrative rule for the Wisconsin Private Forestry Landowner Grant Program:

- Definitions of afforestation were enhanced.
- Eligibility practices under s. NR 47.84 were clarified.
- Clarified practices in s. NR 47.84 to better reflect the full range of the program and all 8 eligible practices.
- Grant selection system under s. NR 47.86(2)(a) was clarified to remove any suggestion of priorities.
- The application and approval section under s. NR 47.86(3) was rewritten to reflect a requested change in the number application acceptance dates, added a provision to carry over applications from one batching period to the next, and added a provision for a minimum cost of \$100.

In addition, there were some individual words changed in a couple of places where there were errors or unclear terms.

### Appearances at the Public Hearings and Their Position

*July 21, 1998 - Rhinelander*

In support:

Richard D. Lodholz, Lodholz North Star Acres, Inc., 420 Hwy. A, Tomahawk, WI 54487  
Arthur Kulosa, 21004 Kulosa Lane, Cazenovia, WI 53924-8031  
Nancy Bozek, Executive Director, WWOA, P.O. Box 285, Stevens Point, WI 54481

John Witherspoon, Pri-Ru-Ta Resource Conservation and Development Council, 153 S. Second St.,  
Suite 202, Medford, WI 54451

In opposition:

Angeline F. Miller, P.O. Box 125, Long Lake, WI 54542

As interest may appear:

Gary B. Gaier, W6344 Lakeshore Drive, Tony, WI 54563  
Donald Lodholz, Lodholz North Star Acres, 428 Hwy. A, Tomahawk, WI 54487

*July 22, 1998 - Madison*

In support:

Peter Wagner, Association of Consulting Foresters, 7702 Sinawa Road, Valders, WI 54245  
Jeff Anderson, 6675 Moon Road, Ridgeway, WI 53582  
Ellen E. Wagner, Wagner Woods and Wildlife, 7702 Sinawa Road, Valders, WI 54245

In opposition - none

As interest may appear:

Roland Rueckert, 2234 West Lawn Avenue, Madison, WI 53711  
Felipe Avila, 1341 South Street, #18, Madison, WI 53715

Response to Legislative Council Rules Clearinghouse Report

The recommendations were accepted.

Final Regulatory Flexibility Analysis

The proposed rule is a grant program for private forest landowners. Therefore, a final regulatory flexibility analysis is not required.

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD  
FR-4-98

The State of Wisconsin Natural Resources Board proposes an order to create ch. NR 47, Subch. VII relating to the private forest landowner grant program.

Analysis Prepared by Department of Natural Resources

Authorizing statutes: ss. 26.38, and 227.11(2)(a), Stats.  
Statutes interpreted: s. 26.38, Stats.

The 1997-98 State Budget created the Wisconsin Forest Landowner Grant Program (WFLGP). These rules amend this chapter to include rules pertaining to the administration of the Wisconsin forest landowner assistance program.

SECTION 1 Chapter NR47, Subchapter VII is created to read:

**SUBCHAPTER VII - THE PRIVATE FOREST LANDOWNER GRANT PROGRAM**

NR 47.80 PURPOSE AND SCOPE. (1) The purpose of this subchapter is to establish procedures and standards for the administration of the private forest landowner grant program as authorized under s. 26.38, Stats., for the purpose of encouraging private forest landowners to manage their lands in a manner that benefits the state's forest and related resources and the people of the state.

NR 47.81 APPLICABILITY. This subchapter is applicable to private, non-industrial forest landowners applying for or receiving grants under this subchapter.

NR 47.82 DEFINITIONS. In addition to definitions in s. NR 47.002, the following definitions apply to this subchapter:

- (1) "Afforestation" means establishing a forest on land not previously forested due to past land use, e.g.: agricultural use.
- (2) "Landowner forest stewardship plan" means the plan prescribing forest stewardship measures to be used on a particular site to achieve multiple natural resource goals.
- (3) "Person" has the meaning in s. 990.01 (26), Stats.
- (3) "Practice" means a stewardship activity or conservation measure consistent with the landowner forest stewardship plan to accomplish the landowner's desired management objectives.
- (4) "Program" means the private forest landowner grant program established by the act.
- (5) "Reforestation" means establishing a forest on lands that were previously forested but where cover has been lost due to recent harvesting, land conversions, natural disasters or other destructive agents.
- (6) "Riparian area" means the area or zone adjacent to a navigable stream or other body of water.
- (7) "Wetlands" means an area where water is at, near or above the land surface long enough to be



capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

NR 47.83 PROGRAM ADMINISTRATION. The department shall administer the program, within the guidance provided by the authorizing statute.

NR 47.84 ELIGIBILITY. (1) ELIGIBLE APPLICANTS. (a) All nonindustrial private forest lands that meet the program requirements as herein stated are eligible for assistance under the program.

(b) The owner of any nonindustrial private forest land which consists of at least 10 contiguous acres and not more than 500 acres of non-industrial private forest land in the state may apply for a grant under this subchapter.

(2) ELIGIBLE PRACTICES. (a) Plan development. Landowner forest stewardship plan development which identifies landowner objectives and multiple resource management decisions. The plan shall meet the following minimum standards:

1. Title page.
2. Signatures of landowners
3. Landowner's long-range goals for the property.
4. Map or aerial photograph showing the property with stands delineated and uniquely labeled.
5. Property overview, i.e. general location, major forest types, general landforms, relevant description of the landscape, etc. Also include discussion of any known threatened or endangered species. (Usually one paragraph).
6. General discussion of landowner goals and the expected effects of achieving these goals on the soil and water, wildlife, recreation/aesthetics, timber and other natural resources. This may be included either as a separate item or as part of the stand recommendations.
7. Stand descriptions and recommendations including: Unique stand identification keyed to the map: vegetation cover type; size class; size (acres); soil characteristics and erodibility (may be covered in a general paragraph if the description is applicable to the whole property); stand objective and its relationship to the landowner goals for the property; recommendations and a short discussion of the effects of such actions on the soil and water, wildlife, recreation/aesthetics and timber resources. (Discussion of the effects is not necessary on a stand-by-stand basis if covered in the general discussion);
8. Activity schedule showing all stands and approximate year of recommended actions for a 5-year period. Include all stands, even if no action is recommended.
9. Contain practices that protect and enhance soil and water quality; threatened, rare or endangered species or communities; sustainable forestry; habitat for fish and wildlife; and the recreational, aesthetic and environmental benefits that the forest land provides.

(b) Practices. The following practices are eligible for grants under this subchapter if the land is subject to a department approved forest stewardship landowner management plan:

Note: All practices will strongly encourage the use of native plant and animal species where practical

1. Reforestation and afforestation which includes establishment or reestablishment of diverse stands of native forest trees through natural regeneration, planting or direct seeding for conservation purposes and sustainable timber production.
2. Forest improvement which includes practices to increase tree growth, tree quality, biological diversity, tree vigor and forest health.
3. Soil and water protection and improvement which includes the maintenance or improvement of water quality and soil productivity, and the reduction of erosion on forest and related land.
4. Wetland protection, restoration and creation which includes the management, protection, restoration and improvement of wetlands to maintain water quality, protect and improve wetlands and improve habitat for wetland wildlife species.
5. Riparian protection and improvement which includes the management, protection, restoration and improvement of riparian areas to maintain water quality, reduce sedimentation and enhance fish or wildlife habitat.
6. Terrestrial wildlife and habitat enhancement which includes the establishment, management and enhancement of permanent habitat for game and non-game wildlife species..
7. Forest historic, environmental and recreational enhancement which helps in identifying and protecting archeological and culturally significant sites; protect, enhance or restore aesthetic quality; enhance non-commercial recreation, and protect forest health.
8. Endangered, threatened or rare natural resource protection, management, restoration and enhancement targeted at threatened or endangered species habitat maintenance or enhancement, and management of significant natural communities or rare native vegetation.

NR 47.85 COSTS. (1) ELIGIBLE COSTS. (a) Grants under the program shall be used to prepare management plans or manage the following lands under an approved landowner forest stewardship plan:

1. All of the nonindustrial private forest land with existing tree cover within a contiguous tract.
2. Other nonindustrial private forest land within the same contiguous tract which is identified by the landowner and approved by the department as suitable for the approved program practice scheduled.
3. Other contiguous related lands included in the forest stewardship plan, such as water, streams and stream corridors, wetlands, marshes, savannas, barrens and prairies.

(b) To be eligible for a grant under this program, one or more eligible practices shall be identified in the forest stewardship plan, except that a grant may be awarded for the development of a forest stewardship plan.

Note: See NR 47.86 for eligible practices

(c) Eligible costs are all those associated with the preparation or installation of a specific practice as approved by the state forester.

(2) INELIGIBLE COSTS. (a) No person may use grant funds under this subchapter for any of the following:

1. Costs incurred before an application for grant assistance is approved.
2. The implementation of any practice already required by law, rule regulation or other authority.
3. Repairs or normal upkeep or maintenance of any practice, except those necessary to ensure seedling or shrub survival, restore prairies, barrens or savannas, control invasive species or other instances where several years of practice implementation are necessary to properly establish a practice, as determined by the department.

(b) Except as authorized by the department, grant assistance may not be paid for repeating practices on the same site by the same landowner which have been implemented under the forestry incentives program or any other federal, state or local government programs, except where the practices are repeated due to a failure of a prior practice without fault of the landowner.

NR 47.86 GRANTS, (1) GRANT CALCULATION. (a) The matching grant shall be 65% of the actual eligible costs.

(b) An annual grant under the program may not exceed \$10,000 for any individual, person or project.

(2) GRANT SELECTION SYSTEM. (a) In selecting practices for grant assistance, the department shall give preference to projects which are directed to accomplish one or more of the following; these are not listed in order of priority:

Establish or reestablish forests through various methods of regeneration, including planting, direct seeding or natural regeneration.

Improve forest stand productivity, stand vigor, forest health, and the value and quality of wood products

Encourage sustainability of forest lands.

Provide protection of soil and water resources.

Include additional land under written forest stewardship management plans.

Provide protection and enhancement of riparian area and wetlands.

Provide protection and enhancement of terrestrial wildlife habitat.

Provide endangered, threatened or rare species habitat enhancement and natural community habitat maintenance and enhancement.

(3) APPLICATION AND APPROVAL. (a) Applicants shall file applications form with the Bureau of Forestry no later than November 30, 1998. Starting in 1999, the application deadlines are as follows and are contingent upon availability of funds: February 1, June 1, and September 1.

Applications can be obtained from the local department of natural resources forester or from:

State Forester, P.O. 7921, Madison, WI 53707-7921.

(b) The department shall make basic eligibility determinations, including whether the applicant meets nonindustrial private forest land ownership criteria and minimum and maximum acreage criteria.

- (c) Grants shall be awarded for eligible projects on first-come-first-serve based on the information received by the Bureau of Forestry.
- (d) Applications not able to be funded during the one applications period will be held until the subsequent application period unless the landowner requests the application get canceled.
- (d) The department shall review applications to determine practice eligibility, based on the following:
  - 1. Consistency with a department approved landowner forest stewardship unless the applicant is applying for a grant to develop one.
  - 2. The practice is needed and feasible.
  - 3. The practice is eligible under this subchapter.
  - 4. The practice cost is determined to be at least \$100 or more..
  - 5. Applications will be approved provided grant funds are available. Department approval of an application shall constitute an agreement between the state and the landowner.
  - 6. Upon approval of a practice, the department shall prepare a practice outline that identifies the needed technical practices, specifications, and approximate time frames for the implementation of the practice, to achieve the objectives of the practice. The outline shall be attached to and become part of the landowner forest stewardship plan and shall be effective for the duration of the practice. The requirements in the practice outline shall constitute the basis for determining acceptable performance upon practice completion.
  - 7. Upon approval of a practice, the landowner shall be notified in writing by the department or its agent. The notice shall state that the landowner can begin implementing the approved practice.
  - 8. Within 8 weeks of the end of the batching period, the Department shall notify the landowner in writing as to the status of his or her application.

NR 47.87 PAYMENT TO LANDOWNERS. (1) A landowner shall complete each practice within 18 months of approval. However, if a practice is not completed in 18 months due to conditions beyond the landowner's control, a 6 month extension period may be granted by the department.

(2) Upon certification by the department that a practice has been completed in accordance with specifications, the grant payment shall be calculated by the department and disbursed to the landowner by the department or its agent.

(3) A practice may consist of one or more component activities. A landowner may receive partial payment for completed components, with approval of the department forester, on the condition that the landowner agrees to complete the remaining components of the practice within the time period specified by the department, not to exceed 18 months following approval to implement the practice, unless an extension is justified as provided in sub. (1).

(4) Where performance actually rendered does not meet the minimum specifications for the practice due to factors beyond the landowner's control, the department may approve grant payment under one of the following conditions:

(a) The landowner repeats applications of components previously implemented or establishes additional eligible components under terms and conditions the department approves to the extent that measures are needed to meet the objectives of the landowner forest stewardship plan; or

(b) The landowner establishes to the satisfaction of the department that the following have been met:

1. A reasonable effort was made to meet the minimum requirements.

2. The practice, as performed, adequately meets the objectives of the landowner forest stewardship plan.

(5) Where the landowner has received grant assistance for site preparation and the establishment of trees has been unsuccessful due to factors beyond the landowner's control, the department shall require that trees be re-established and shall approve grant assistance for the activity.

(6) The minimum length of time a landowner shall be required to maintain a practice is 10 years.

(7) To be eligible to receive cost-share grants under the program, a landowner shall agree to maintain program practices for 10 years, unless otherwise specified by the state forester.

(8) Prior to receiving approval to implement any program practice, eligible landowners shall have a department approved landowner forest stewardship plan. If a landowner sells, conveys, or otherwise loses control of lands upon which there is a continuing obligation to maintain a practice and the new landowner does not agree to assume the responsibility for maintaining the practice, the landowner who was originally obligated to maintain the practice shall be liable to reimburse the department for payments on the practices. The state forester may discount the reimbursement owed the department by the percentage of years during which the practice has been maintained. In the case of death or incompetency of any landowner, the department shall approve grant payments to the successor if the successor agrees to maintain the practice for the duration of the agreement.

(9) Any landowner who may be entitled to any grant payment under this section may assign the right, in whole or in part, with the prior written approval of the department.

(10) No grant payment owed to any landowner shall be subject to any claim arising under state law by any creditor, except agencies of the State of Wisconsin.

**NR 47.88 RECONSIDERATION.** Any landowner, successor or assignee who is dissatisfied with any determination made under the program may request reconsideration by the state forester. All requests for reconsideration shall be in writing and shall contain factual information explaining the basis for requesting reconsideration. All decisions upon reconsideration shall be issued in writing.

**NR 47.89 ENFORCEMENT.** (1) If any landowner, successor or assignee uses any scheme or device to unjustly benefit from this program, the cost-share grants shall be withheld or a refund of all or part of any program payments otherwise due or paid that person shall be secured. A scheme or device includes, but is not limited to, coercion, fraud or misrepresentation, false claims, or any business dissolution, reorganization, revival or other legal mechanism designed for or having the effect of evading the requirements of this subchapter.

(2) If any landowner or successor takes any action or fails to take action which results in the destruction or impairment of a prescribed practice for the duration of the practice, cost-share grants shall be withheld or a refund of all or part of any program payments otherwise due or paid shall be secured.

(3) Nothing in this subchapter requiring the withholding or refunding of cost-share grants shall preclude

any other penalty or liability otherwise imposed by law.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on September 23, 1998..

The 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.

Dated at Madison, Wisconsin \_\_\_\_\_

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
George E. Meyer, Secretary

(SEAL)