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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE REPORT TO AGENCY

[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 **02-074**

AN ORDER to amend NR 47.80 and 47.86 (1) (a), (3) (a) and (c) and (e) 1. and 4.; and to create NR 74.85 (2) (a) 4. and 5. and 47.895, relating to the administration of the Wisconsin forest landowner grant program.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

05-30-2002 RECEIVED BY LEGISLATIVE COUNCIL.

06-20-2002 REPORT SENT TO AGENCY.

RNS:MM

**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 02-074

#### 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. In SECTION 3 of the draft, s. NR 47.86 (3) (c) 1. to 4. should be created; underscoring is not used when creating an entire rule unit. [See s. 1.06 (1), Manual.]
- b. In s. NR 47.86 (3) (c) 2., the period following "remaining" should be deleted.

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

In s. NR 47.86 (3) (c) 3., the phrase "identified in sub. (2) (a)" should be inserted after "practices."

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

- a. In the last sentence of the analysis, "an" should be used before "avenue."
- b. Section NR 47.85 (2) (a) 5. would be clearer if it read: "5. Changes to or for any practice that has not been approved by the department if the department approves the changes in writing" if that is what is intended.
- c. In the note following s. NR 47.86 (3) (c) 1., "to include, but" should be replaced with "A statewide forestry emergency includes, but is . . ."
- d. In s. NR 47.895 (intro.) and (3), "these rules" should be replaced with "this subchapter."

e. It appears that the material in s. NR 47.895 (3) should be moved to sub. (2) of that section because that material does not identify an additional source of funding but rather is a restriction on the use of the type of funds identified in sub. (2). Also, it is not clear to what "the appropriation" refers.

Report to  
Legislative Council Rules Clearinghouse  
NR 47, subch. VII, Wis. Adm. Code  
Natural Resources Board Order No. FR-36-02

Wisconsin Statutory Authority

ss. 26.38, 28.01 and 28.07, Stats., interpreting ss. 26.38, 28.01 and 28.07, Stats.

Federal Authority

N/A

Court Decisions Directly Relevant

None

Analysis of the Rule - Rule Effect - Reason for the Rule

Based on efforts to improve the delivery of Wisconsin forest landowner grants, the following modifications to ch. NR 47, subch. VII are proposed:

1. Reduce the cost-share rate from 65% to 50% on all practices.
2. Prevent the practice of combining other cost-share programs with the Wisconsin forest landowner grant program.
3. Delete obsolete processing deadlines and change the June 1 processing date to May 1 to accommodate the Bureau of Finance's fiscal year close-out deadlines.
4. Insert language into the rule to allow for a portion of Wisconsin forest landowner grant funds to be used as emergency funds when situations such as wind storms, ice storms, fire losses, etc., create large-scale losses on private lands. In this case, the recommendation is to allow allocation of up to 20% of the annual funds, at the Chief State Forester's request, to use in an "emergency" area in the following fiscal year.
5. Insert language to allow for some prioritization for funding projects, specifically, that the practices of management plan preparation, reforestation and afforestation and timber stand improvement be allocated up to 80% of the annual funds with the remainder of the funds to be used for the five remaining practice categories.
6. Raise the minimum reimbursement request to \$200 from \$100.
7. Insert language to allow other state, federal or private funds to be distributed through this program.

Agency Procedures for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review.

Description of any Forms (attach copies if available)

None

Name and Telephone Number of Agency Liaisons

Bob Mather, Bureau of Forestry - 266-1727  
Eric Ebersberger, Bureau of Legal Services - 266-0228  
Carol Turner, Bureau of Legal Services - 266-1959

Submitted on May 30, 2002

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

The Wisconsin Natural Resources Board proposes an order to amend NR 47.80 and 47.86(1)(a), (3)(a) and (c) (e)1. and 4. and creating NR 47.85(2)(a)4. and 5. and 47.895 relating to the administration of the Wisconsin Forest Landowner Grant Program.

FR-36-02

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 26.38, 28.01 and 28.07, Stats.  
Statutes interpreted: ss. 26.38, 28.01 and 28.07, Stats.

**Scope of Program:** Broadens the scope of the Wisconsin Landowner Grant Program to allow other state and federal funds to be distributed through this program for encouraging private landowners to manage their lands. In a manner that benefits the state's forest land and related resources and the people of the state.

**Reimbursable Landowners Costs:** Creates new language to strengthen the commitment of private landowners to their projects by clearly disallowing the use of funds other than their own as the part required under this program. It further requires that any changes in a practice must be approved by the department before implementing if reimbursement is requested.

**Application Procedures and Grant Calculations:** The amount of reimbursement a landowner can claim is adjusted from 65% to 50%, application deadlines are modified to reflect internal processing deadlines, an allowance is made to use funds to assist in emergency situations, and priorities are established for funding requests.

**Authorization for Use of Other Funding Sources:** There is a need to establish a method for allowing outside agencies or organizations to augment the State WFLGP funds. Funds may come from a private organization for a specific forestry practice or from the federal government for more general private landowner assistance efforts. All funds distributed through this program would be consistent with the program goals, scope and purpose. This section was created to allow a avenue for distributing funds of a similar purpose through an existing structure.

**SECTION 1.** NR 47.80 is amended to read:

**NR 47.80 Purpose and scope.** 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., and to distribute other available state and federal funds 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.

**SECTION 2.** NR 47.85 (2)(a) 4. and 5. are created to read:

NR 47.85(2)(a)4. As a match or in combination with any other public or private funds.

5. Changes to or for any previously department approved practice not authorized by the department in writing.

**SECTION 3.** NR 47.86 (1)(a), (3)(a) and (c), (e) 1. and 4. are amended to read:

NR 47.86(1)(a) The matching grant shall be ~~65%~~ not more than 50% of the actual eligible costs. OK

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

(c) Grants under s. 26.38, Stats., shall be awarded for eligible projects on a ~~first-come-first-serve~~ priority basis based on the ~~information received by the bureau of forestry.~~ following criteria:

1. Up to 20% of the total annual funds may be designated towards a statewide forestry emergency, as designated by the chief state forester.

*rest*  
Note: To include, but not be limited to natural and man-made events which cause large areas of forest mortality due to wind, ice, hail, flooding, forest fires, forest insect or disease.

2. No more than 80% of remaining funds may be designated towards forest stewardship plan development; reforestation and afforestation; and timber stand improvement.

3. The remaining funds after distribution to activities designated in subd. 2. to the remainder of the practices.

4. If funds are available following distribution under subds. 1. to 3., they may be distributed on a first-come-first-serve basis to any approved applications awaiting funding.

(e)1. Consistency with a department approved landowner forest stewardship plan unless the applicant is applying for a grant to develop one.

4. The practice cost is determined to be at least ~~\$400~~ \$200 or more.

**SECTION 4.** NR 47.895 is created to read:

**NR 47.895 Funding.** Funding for grants under these rules include:

(1) Funds appropriated for the grant program established under s. 26.38, Stats.

(2) Other state or federal funds appropriated for the purpose of encouraging private forest landowners to manage lands in a manner that benefits this state's forest and related resources and the people of the state and the practice, or practices, identified for the funding is consistent with any identified in this subchapter as eligible for funding

(3) Other state or federal funds distributed through these rules shall be distributed to practices or projects consistent with the appropriation..

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

The rules shall take effect 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 \_\_\_\_\_  
Darrell Bazzell, 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-36-02

Legislative Council Rules Clearinghouse Number 02-074

Subject of Rules Administration of the  
Wisconsin forest landowner grant  
program

Date of Transmittal to Presiding Officer 02/28/2002

**NR 47.86**

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

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

Telephone: 266-1959  
e-mail: [turnec@dnr.state.wi.us](mailto:turnec@dnr.state.wi.us)

An electronic copy of the proposed rule may be obtained by contacting Ms. Turner

## REPORT TO LEGISLATURE

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

Board Order No. FR-36-02  
Clearinghouse Rule No. 02-074

### Statement of Need

The Wisconsin Forest Landowner Grant Program has been assisting landowners since 1998. Over 3,250 landowners have participated in this program, applying sound management practices to over 250,000 acres of Wisconsin's forested lands. It is extremely popular with landowners and foresters alike due to the relative ease of implementation. However, funds run short, and even with a recent boost of \$125,000 to the annual budget, there is still a backlog of landowners waiting up to a year to receive funding for projects.

The proposed rules will help prioritize the practices being funded, allow the Department to allocate a portion of the funds to address forestry disaster situations, allow other funds to be distributed through this program, and extend existing funds to more landowners. The proposed revisions will:

1. Create an option to reduce the cost-share rate from 65% to 50% on all practices in years when funds do not meet the demand at a 65% cost-share rate.
2. Prevent the practice of combining other cost-share programs with the Wisconsin Forest Landowner grant program through suggested language changes.
3. Delete obsolete processing deadlines from the rule and change September 1 to August 1 in order to give landowners wanting to do fall site preparation adequate lead time, and change the June 1 processing date to May 1 to accommodate the Bureau of Finance's fiscal year close-out deadlines.
4. Insert language into the rule to allow for a portion of Wisconsin Forest Landowner grant program funds to be used as emergency funds when situations such as wind storms, ice storms, fire losses, etc., create large-scale losses on private lands. In this case, the recommendation is to allow allocation of up to 20% of the annual funds, at the Chief State Forester's request, for use in an "emergency" area in the following fiscal year.
5. Insert language into the rule to allow for some prioritization for funding projects. Specifically, that the practices of management plan preparation, reforestation and afforestation, and timber stand improvement be allocated up to 80% of the annual funds with the remainder of the funds to be used for the five remaining practice categories.
6. Raise the minimum reimbursement request to \$200 from \$100.
7. Insert language to allow other state, federal or private funds to be distributed through this program.

### Modifications as a Result of Public Hearing

The reduction in cost share rates from 65% to 50% was revised to create the option of either 65% or 50% depending on the availability of funds.

Minor modifications were made to clarify how federal and other state funds can be used through this program so that landowners fully benefit from a simplified process and the integrity of the two programs is maintained.

Appearances at the Public Hearings and Their Position

July 11, 2002 – Black River Falls – no appearances

July 11, 2002 – Stevens Point

In support:

Michael Gehrke, W6272 Everson Road, Winter, WI 54896  
Willard D. Kiefer, 7784 S. County Road S, Lake Nebagamon, WI 54849

In opposition – none

As interest may appear:

Marvin C. Meier, 4901 Blackberry Drive, Wausau, WI 54401  
Paul Lochner, 2830 Plover Spring Drive, #26, Plover, WI 54467

July 12, 2002 – Madison – no appearances

Response to Legislative Council Rules Clearinghouse Report

The recommendations were accepted.

Final Regulatory Flexibility Analysis

The proposed rules do not regulate small business; therefore, a final regulatory flexibility analysis is not required.

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

The Wisconsin Natural Resources Board proposes an order to amend NR 47.80, 47.83, 47.84 (2) (b) and 47.86(1)(a), (3)(a), (c), (e)1. and 4. and to create NR 47.84 (1) (c), 47.85(2)(a)4. and 5. and 47.895 relating to the administration of the Wisconsin Forest Landowner Grant Program.

FR-36-02

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 26.38, 28.01 and 28.07, Stats.

Statutes interpreted: ss. 26.38, 28.01 and 28.07, Stats.

**Scope of Program:** Broadens the scope of the Wisconsin Forest Landowner Grant Program (WFLGP) to allow other state and federal funds to be distributed through this program for encouraging private landowners to manage their lands in a manner that benefits the state's forest land and related resources and the people of the state.

**Reimbursable Landowners Costs:** Creates new language to strengthen the commitment of private landowners to their projects by clearly disallowing the use of funds other than their own as the match required under this program. It further requires that any changes in a practice must be approved by the department before implementing if reimbursement is requested.

**Application Procedures and Grant Calculations:** Allows the department to reduce from 65% to 50% the amount of reimbursement a landowner can claim when demand exceeds available funding; application deadlines are modified to reflect internal processing deadlines; an allowance is made to use funds to assist in emergency situations; and priorities are established for funding requests.

**Authorization for Use of Other Funding Sources:** Establishes a method for allowing outside agencies or organizations to augment the State WFLGP funds. Funds may come from a private organization for a specific forestry practice or from the federal government for more general private landowner assistance efforts. All funds distributed through this program would be for projects consistent with the WFLGP goals, scope and purpose. This section was created to allow an avenue for distributing funds appropriated for a similar purpose through an existing structure.

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**SECTION 1.** NR 47.80 is amended to read:

**NR 47.80 Purpose and scope.** 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., and to distribute other available state and federal funds 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.

**SECTION 2.** NR 47.83 is amended to read:

**NR 47.83 Program administration:** The department shall administer the program, within the guidance provided by authorizing statute. Additional guidance may accompany federal funding and state funding other than that provided through s. 20.370 (5) (av), Stats.

**SECTION 3.** NR 47.84 (1) (c) is created read:

NR 47.84 (1) (c) Eligibility for federal funding may be defined in the grant agreement through which federal funding is provided. Further, additional eligibility criteria may accompany state funding other than that provided through s. 20.370 (5) (av), Stats.

**SECTION 4.** NR 47.84(2)(b) is amended to read:

NR 47.84 (2) (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. However, additional restrictions on eligible practices may accompany funding for this program other than that provided through s. 20.370 (5) (av), Stats.

**SECTION 5.** NR 47.85 (2)(a) 4. and 5. are created to read:

NR 47.85(2)(a)4. As a match or in combination with any other public funds..

5. Practices not approved by the department in writing, or changes to a previously approved practice, unless authorized by the department in writing.

**SECTION 6.** NR 47.86 (1)(a), (3)(a) and (c), (e) 1. and 4. are amended to read:

NR 47.86(1)(a) ~~The~~ A matching grant provided through s. 20.370 (5) (av), Stats., or other state funds shall be not less than 50% nor more than 65% of the actual eligible costs depending on availability of funds. If a federal grant agreement provides for cost-share limitations different from those specified in this subsection, the cost-share rate from funds provided through the federal grant agreement may apply.

(3) APPLICATION AND APPROVAL. (a) ~~Applicants shall file applications with the bureau of forestry no later than November 30, 1998. Starting in 1999, the application~~ Application deadlines are as follows and are contingent upon availability of funds: February 1, ~~June~~ May 1, and ~~September~~ August 1. State funds for this program other than those provided through s. 20.370 (5) (av), Stats., and federal funds awarded pursuant to a federal grant agreement may specify other application deadlines.

(c) Grants under s. 26.38, Stats., shall be awarded for eligible projects on a first-come-first-serve priority basis based on the information received by the bureau of forestry. following criteria:

1. Up to 20% of the total annual funds may be designated towards a statewide forestry emergency, as designated by the chief state forester.

Note: A statewide forestry emergency includes, but is limited to natural and man-made events which cause large areas of forest mortality due to wind, ice, hail, flooding, forest fires, forest insect or disease.

2. No more than 80% of remaining funds may be designated towards forest stewardship plan development; reforestation and afforestation; and timber stand improvement.

3. The remaining funds after distribution to activities designated in subd. 2. to the remainder of the practices identified in sub. (2) (a).

4. If funds are available following distribution under subds. 1. to 3., they may be distributed on a first-come-first-serve basis to any approved applications awaiting funding.

(e)1. Consistency with a department approved landowner forest stewardship plan unless the applicant is applying for a grant to develop one.

4. The practice cost is determined to be at least ~~\$100~~ \$200 or more.

**SECTION 7.** NR 47.895 is created to read:

**NR 47.895 Funding.** Funding for grants under these rules includes:

(1) Funds appropriated for the grant program established under s. 26.38, Stats.

(2) Other state or federal funds appropriated for the purpose of encouraging private forest landowners to manage lands in a manner that benefits this state's forest and related resources and the people of the state, provided the practice or practices identified for the funding are consistent with any identified in this subchapter as eligible for funding

(3) Other state or federal funds distributed through this subchapter shall be distributed to practices or projects consistent with the appropriation.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on August 14, 2002.

The rules shall take effect 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 \_\_\_\_\_  
Darrell Bazzell, Secretary

(SEAL)



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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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AN ORDER to amend NR 47.80 and 47.86 (1) (a), (3) (a) and (c) and (e) 1. and 4.; and to create NR 74.85 (2) (a) 4. and 5. and 47.895, relating to the administration of the Wisconsin forest landowner grant program.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

05-30-2002 RECEIVED BY LEGISLATIVE COUNCIL.

06-20-2002 REPORT SENT TO AGENCY.

RNS:MM





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### CLEARINGHOUSE RULE 02-074

#### Comments

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- b. In s. NR 47.86 (3) (c) 2., the period following “remaining” should be deleted.

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

- a. In the last sentence of the analysis, “an” should be used before “avenue.”
- b. Section NR 47.85 (2) (a) 5. would be clearer if it read: “5. Changes to or for any practice that has not been approved by the department if the department approves the changes in writing” if that is what is intended.
- c. In the note following s. NR 47.86 (3) (c) 1., “to include, but” should be replaced with “A statewide forestry emergency includes, but is . . . .”
- d. In s. NR 47.895 (intro.) and (3), “these rules” should be replaced with “this subchapter.”

e. It appears that the material in s. NR 47.895 (3) should be moved to sub. (2) of that section because that material does not identify an additional source of funding but rather is a restriction on the use of the type of funds identified in sub. (2). Also, it is not clear to what "the appropriation" refers.