

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

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## CLEARINGHOUSE RULE 97-153

### 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 October 1994.]**

#### *1. Statutory Authority*

a. Section 26.145 (2) (b), Stats., as created by 1997 Wisconsin Act 27, provides that the department may not award a grant for fire suppression unless the grant recipient agrees in writing to assist the department in the suppression of forest fires at the department’s request. Section NR 47.904 (1) (a) requires that a fire department enter into a forest fire suppression agreement acceptable to the department. Presumably, an “agreement acceptable to the department” will include a provision requiring the recipient to assist the department in the suppression of forest fires at the department’s request. Section NR 47.905 (1) (b) simply describes an eligible applicant as a Wisconsin fire suppression organization, but does not similarly require that the organization execute an agreement acceptable to the department. Although s. NR 47.908 (1) requires the execution of a grant agreement by both the department and the grant applicant, the rule should be reviewed and clarified to expressly comply with the requirement of s. 26.145 (2) (b), Stats., that a recipient agree to assist in fire suppression efforts at the department’s request.

b. Section NR 47.905 (2) (intro.) states that forest fire protection grants may be used for *projects and activities* associated with forest fire protection and suppression. However, s. 26.145 (1), Stats., authorizes grants only for the acquisition of fire-resistant clothing and fire suppression supplies, equipment and vehicles. The eligible projects described in the rule exceed the authority granted in s. 26.145, Stats. [See, also, s. NR 47.905 (2) (f), relating to forest fire training as an eligible project.]

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

a. Chapter NR 47 currently has subchapters numbered I to VI and this rule creates subchapter IX in that chapter. Is there a reason that the new subchapter is not numbered VII, to continue the sequence in that chapter?

b. In s. NR 47.902 (3), the definition of “fire suppression organization” is confusing, especially the words “region that serve.” Also, it refers to “a fire department . . . that represents a majority of the fire departments . . . .” It appears that the definition is describing several things:

- (1) A not-for-profit organization that represents a majority of fire departments in a county.
- (2) A not-for-profit organization that serves a forest fire control area.
- (3) A fire department that serves a forest fire control area.

It would be clearer to break the definition into the parts listed above.

c. The cross-reference in s. NR 47.902 (3) should be replaced with more precise references to ss. NR 30.01 and 30.02.

d. Rules should express mandatory provisions by the use of the word “shall” and permissive provisions with “may” and the word “will” should not be used. [s. 1.01 (2), Manual.] This usage should be corrected in ss. NR 47.903 (1) and (6) and 47.908 (2).

e. Section NR 47.903 (4) and (5) are duplicated by s. NR 47.904 (2) and (3), although the substance of the two sets of provisions are not the same. The dollar limit on grants should be stated only once, either with or without a minimum amount. In addition, s. NR 47.906 (1) (b) duplicates the second sentence of s. NR 47.904 (1).

f. Assuming that the grant program will be limited to the purchase of equipment, as provided in s. 26.145 (1), Stats., does the concept of in-kind matching apply? If not, the second sentence of s. NR 47.904 (1), and s. NR 47.906 (1) (b), should be omitted.

g. Sections NR 47.905 (20) (a) and (f) and 47.907 (3) refer to NFPA standards. The department should ensure that the requirements of s. 227.21 (2), Stats., are met.

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

a. In s. NR 47.903 (1), the phrase “single funding cycle” should be augmented by an internal cross-reference to subs. (2) and (3). Also, in sub. (3), the phrase “following July 1” should be replaced by the phrase “after June 30.” In sub. (4), the word “that” should be replaced by the word “than.” Finally, in sub. (7), the phrase “fire suppression organizations” should be replaced by the phrase “a fire suppression organization,” in order to maintain consistency with the use of the singular form in the remainder of the subsection.

b. Section NR 47.904 (4) should be rewritten to clarify whether funds will be prorated if they are insufficient to meet the requests of all applicants or whether the funds will be granted on a first-come, first-served basis.

c. In s. NR 47.905 (2) (b), the last comma should be replaced by the word “and.” In par. (c), the comma preceding the word “repeater” should be replaced by the word “and” and the notation “, etc.” should be deleted. Finally, in par. (d), the acronym “GPS” should be spelled out.

d. In s. NR 47.906 (2) (d), the first occurrence of the word “a” in the second sentence should be replaced by the word “an.” Also, in par. (d) 2., the phrase “A person identified in par. (d) (intro.)” should be replaced by a reference to an official or employe of a grantee. Further, should this reference include the spouse or partner of the official or employe as provided in par. (d) 1.? Finally, in par. (d) 2., what constitutes a “favor”?

e. In s. NR 47.907 (2), the word “jurisdiction” should be replaced by the word “jurisdictions.”

f. In s. NR 47.908 (2), the word “complete” should be replaced by the word “completed” and the phrase “by the grantee” should be inserted after the word “requested.”