

Report From Agency

REPORT TO LEGISLATURE

NR 1.25, Wis. Adm. Code
Definition of “generally accepted forestry management practices”

Board Order No. FR-28-06
Clearinghouse Rule No. 06-097

Basis and Purpose of the Proposed Rule

Section 823.075(1)(d), Stats., as created by 2005 Wisconsin Act 79, requires the Department to define “generally accepted forestry management practices”. The proposed rule defines the term and incorporates by reference the document “Wisconsin Forest Management Guidelines”. The “Wisconsin Forest Management Guidelines” is used by the Department as a guidance document. The proposed rule requires updates to the “Wisconsin Forest Management Guidelines” a minimum of every five years and requires the Department to use a process that incorporates public participation, including public comments.

Summary of Public Comments

The comments received at the public hearings were generally in support of the proposed rule. See attached summary of the comments received.

Modifications Made

A definition of “sound management of a forest” was added to address comments referencing concerns for sustainable forestry and biological diversity. The definition also addresses the comment concerning protection of forests.

Appearances at the Public Hearing

Rhineland, August 29, 2006

In Support:	None
In Opposition:	None
As Interest May Appear:	Walt Ruckheim, USDA – Forest Service Senator Roger Breske David Czysz, Stora Enso

Eau Claire, August 30, 2006

In Support:	None
In Opposition:	None
As Interest May Appear:	Megan Parker, The Country Today

Fitchburg, August 31, 2006

In Support:	None
In Opposition:	None
As Interest May Appear:	Kathleen Fullin, 110 Farley Avenue, Madison, WI

Changes to Rule Analysis and Fiscal Estimate

No changes were required.

Response to Legislative Council Rules Clearinghouse Report

The recommendations were accepted.

Final Regulatory Flexibility Analysis

Small businesses affected by this rule include forest landowners, foresters, resource managers, loggers and equipment operators. There is not any compliance, reporting, bookkeeping or other procedures imposed on small businesses as part of this rule. A final regulatory flexibility analysis is not required under s. 227.19(3m), Stats., because the proposed rule will not have a significant economic impact on small businesses.

Summary of Public Comments for NR 1.25, Wis. Admin. Code to Define “Generally Accepted Forestry Management Practices”

This document summarizes the comments received during the public comment period and Department responses on proposed s. NR 1.25, Wis. Admin. Code.

Written Comments

Pete Bartelt, Price County Forest and Parks Administrator

Price County Forestry and Parks Department supports the “generally accepted forestry management practices” published in the DNR publication “Wisconsin Forest Management Guidelines”. We also feel that a review and update every five years will insure it remains current with new technology supporting sustainable forestry practices. We would request that someone representing the Wisconsin County Forest Association participate in the review.

Response: The Wisconsin County Forest Association has been identified by the Department as likely to participate to in the review process.

Anthony Deininger, Fox Valley Technical College, Natural Resources Department

I support any effort that allows a landowner to manage their woodlot or forested land in an acceptable manner. The proper management of a forest is a right that should be equal to all landowners regardless of location of their woodlot.

Response: The definition of “generally acceptable forestry management practices” and referencing the Wisconsin Forest Management Guidelines (FMG) are intended to provide a landowner with guidance on how to manage a forest, recognizing the landowner’s management objectives, site conditions, forest condition and other factors.

Carla Klein, Chapter Director, Sierra Club, John Muir Chapter

The John Muir Chapter of the Sierra Club is writing in regard to the proposed changes to Natural Resources Rule NR 1.25. We respectfully request that the definition “Generally accepted forestry management practices” be modified to include references to maintenance of biological diversity and sustainable forestry practices.

Response: References to ecological principles for the management and conservation of forest ecosystems to meet wildlife habitat, watershed, aesthetics, cultural and biological goals and objectives has been added to the definition of “sound management of a forest”. The definition of “generally accepted forestry management practices” has been changed to be the same as the definition found in s. 823.075 (1)(d), Stats.

Colette Matthews, Executive Director, Wisconsin County Forest Association

The WCFA is in support of the “generally accepted forestry management practices” as put together and published in the DNR publication “Wisconsin Forest Management Guidelines”. We also are in favor of reviewing and updating this publication every five years, with the thought that this excellent publication will always be on the leading edge of sustainable forestry practices. Much time, thought and effort was put into this publication. It can be used by the small landowner, or assist the owner of large parcels with management questions. It is written in language easy to understand by a lay person.

If a private landowner does not choose to harvest their timber, there is no requirement to do so, unless they are enrolled in a tax program, but it explains how best their property should be managed to remain healthy. If a landowner is enrolled in one of the tax programs, they have a responsibility to provide for the common good of the state as a payback for the lower tax rate they are receiving. They should have no problem in following these rules and regulations. This rule gives them a picture of what they must follow if they wish to continue to receive a tax break.

Response: The definition of "generally acceptable forestry management practices" and referencing the Wisconsin Forest Management Guidelines (FMG) are intended to provide a landowner with guidance on how to manage a forest, recognizing the landowner's management objectives, site conditions, forest condition and other factors.

Glen Stanosz, Ph. D., University of Wisconsin - Madison, Department Plant Pathology and Department of Forest Ecology and Management

I strongly recommend the inclusion of "protection" to the already included "propagation" and "improvement." Protection from diseases and insects that are perhaps the most serious threats to our forests is far underappreciated and undersupported by the public and by your organization.

Response: References to protection of forest ecosystems to meet wildlife habitat, watershed, aesthetics, cultural and biological goals and objectives, while maintaining the productivity of a forest, has been added to the definition of "sound management of a forest". The definition of "generally accepted forestry management practices" has been changed to be the same as the definition founding s. 823.075 (1)(d), Stats.

Caryl Terrell

The proposed Natural Resources Rule NR 1.25 to define "Generally accepted forestry management practices" should include references to sustainable forestry practices and to maintenance of biological diversity.

Response: References to ecological principles for the management and conservation of forest ecosystems to meet wildlife habitat, watershed, aesthetics, cultural and biological goals and objectives has been added to the definition of "sound management of a forest". The definition of "generally accepted forestry management practices" has been changed to be the same as the definition founding s. 823.075 (1)(d), Stats.

Bill Willers

Wisconsin law states that no "forestry operation" may be declared a nuisance, nor may any town or county pass a zoning ordinance interfering with forestry operations, if carried out by "generally accepted forestry management practices." But here's the question: What, exactly, is "generally accepted" and who determines it?

This is being covered at a DNR hearing in Fitchburg on Aug. 31. What is proposed is that "generally accepted forestry management practices" be defined as "methods recommended or approved by the department for most effective propagation and improvement of the various timber types common in Wisconsin."

For any independent biologist who values native forests and considers the thousands of noncommercial plants and animals that compose them to be every bit as much "the forest" as a few commercial "timber types," this proposed law sounds like straightforward tree farming. And that is exactly what it is, because the proposed wording, to become part of Forest Management Guidelines, is exactly as now found in the Forest Tax Law, which is geared specifically to the production of lumber and pulp.

What is proposed, therefore, is an industrial recipe for maintaining the North Woods as a vast fiber mill. As this definition is being considered, understand some related facts.

The forest products industry enjoys such dominance in government, including the DNR and much of the UW System, that any walls separating them are only theoretical. Groups deciding the fate of state forests, including the governor's Council on Forestry, consist almost exclusively of personnel in, or connected to, industry. Ecologists free of industrial connection decide nothing. Industry has pressed so-called "right to practice forestry" laws so that already three state statutes prohibit ordinances interfering with logging done according to practices deemed "generally accepted."

What is being proposed means that "generally accepted" is to be absolutely anything approved by a DNR forester, no matter how destructive to non-industrial values.

Any branch of science serving a profit-oriented industry is not independent and cannot offend the profit interests of the industry that feeds it. In recent years, every attempt by independent biologists to make protection of native biological diversity a prime function of state forests and there have been a number has been crushed by industry and its governmental representatives, lobbyists, foresters and PR personnel.

The public is being trained to see plantations as real forests. Stora Enso Corp., the vice president of which chairs our governor's Council on Forestry, distributes circulars with a photo of a pine plantation as a "well managed forest." Wisconsin Public Television's show "In Wisconsin" airs pieces showing pine plantations as "well managed forests."

Most troubling, though, is a new K-12 forestry education system called LEAF. In 2002, in an amazing "revolving door" move, the head of DNR Forestry retired to become the director of the Wisconsin Professional Loggers Association and thereby industry's most powerful lobbyist. Shortly thereafter, LEAF was introduced into public schools with special thanks to this lobbyist.

I have reviewed LEAF's lesson guides and videos. In my view, LEAF is subtly crafted industrial propaganda to train the public that the primary function of forests is to be transformed into monocultures and plantations so as to serve as fiber mills, economic engines and producers of consumer goods.

Because no investigative journalism has followed the complex money trails through industry, government and academia, this has transpired below public radar. State forests are already managed largely for industry. A recent biotic survey of the Brule River State Forest, for example, reveals that 71 percent of its tree-covered area is managed as aspen monoculture or pine plantation.

If industry and its governmental and academic agents can dictate that "generally accepted practice" is anything an industrial forester says it is, every alternative view of what constitutes a "forest" is lost, because any person or group questioning any industrial practice would be guaranteed a loss in the courts, and also required to pay court costs plus charges industry might claim due to loss of logging time.

It is perfectly anti-democratic, because every possible route for citizen challenge of any logging activity will have been closed.

Response: The proposed includes a definition of "generally acceptable forestry management practices" and references the Wisconsin Forest Management Guidelines (FMG) help determine what practices are generally acceptable. The guidelines found in the FMG are designed to be flexible, recognizing that landowners have different management objectives, site conditions, and other considerations. The goal of the FMG is to empower landowners, foresters and loggers so that they can make informed decisions on how to manage a particular parcel. It is also important to recognize that the FMG is not a management plan. The FMG provides information to support the implementation of a plan, once it is developed. The FMG also does not mandate whether a particular forest management activity should or should not occur. The FMG is designed to provide guidance on how to implement an activity, once a plan identifies a need.

Ultimately, the goal of the FMG is encourage informed decision-making by landowners and land managers that takes into account resource needs, landowner objectives, site capabilities, and the best available information available at any given time.

Hearing Comments

Kathleen Fullin

Clear-cuts may be considered an acceptable forestry practice, but what if it would destroy plant or animal diversity. What would happen in that situation? It sounds like from reading the rule that you cannot object if it is sound forestry, but what if there is a conflict between forestry and wildlife considerations? Does a community have the ability to require certain practices to protect that area?

Or what if a landowner is leaving snags for wildlife, but the neighbors object to the way it looks? Is the landowner subject to some local pressure to cut the trees?

When the Department developed the forest management guidelines, was there discussion of practices other than timber harvesting being acceptable?

Response:

Silvicultural systems are divided into even and uneven-aged management. Even-aged management includes clear-cuts, but there are generally accepted ways of conducting a clear-cut. The trees have to be a certain age, the trees need to be regenerated, and practices need to be implemented to ensure future productivity of the site.

There are recommendations and guidelines applicable to wildlife habitat, but if endangered species are an issue, then those laws will apply. Anytime a forest is disturbed, either by human activities or by natural events, the forest structure will change, and some animals will benefit and some will not. The guidelines include things landowner may do to encourage wildlife habitat, but it is not a requirement.

If the landowner is following generally accepted forestry management practices, then a community would not have authority to prohibit an activity. If a landowner is not following those practices, then a community would have authority to stop an activity or require certain actions be taken.

In the case of leaving snags, peer pressure may likely be more a factor than a local ordinance. Snags may become a safety issue, but is unlikely to be an aesthetic issue in ordinances.

The guidelines address the breadth of forest management objectives, including timber, water quality, recreation, wildlife habitat and others. A landowner can determine what objectives is most important, and based on those objectives, site characteristics, and other considerations, the guidelines can be used to help determine how to achieve those objectives. These may include active management or passive management options.