

REPORT TO LEGISLATURE

NR 47, Wis. Adm. Code

Natural Resources Board Order FR-07-12
Clearinghouse Rule Number CR 13-036

Basis and Purpose of the Proposed Rule

This proposed rule would create a new grant program, which would allow additional flexibility for County Forests to select the optimal combination of resources provided to each by the Department. Presently the DNR Division of Forestry (DOF) provides assistance to County Forests, aligning workload with the statutory role of the DNR in coordination of the County Forest program. An agreed upon number of hours are provided to each county based on the workload for that particular county. The DOF's Strategic Direction process in 2011-12 realigned forest resources to better accomplish the DOF's mission in Wisconsin's Statewide Forest Plan. As part of that process, each County Forest was given the opportunity to request a modification of the allocation of resources provided by the Department among a suite of grants and the hours of technical forestry assistance the DOF provides to best meet their individual needs. Several counties (Clark, Eau Claire, Iron, Jackson and Langlade) desire to reduce their technical assistance from DNR in exchange for funding that would allow them to hire contractors or seasonal staff to accomplish similar forestry work. The thought is that some of the forestry tasks may be done adequately using potentially lesser paid seasonal or contracted staff, with the end result being the ability to get more work done with the same amount of resources. The proposed grant program is structured to focus on accomplishing tasks already identified in the time standards agreement for each county, which guides what activities have typically been accomplished by DOF staff. This funding would provide for on-the-ground sustainable forestry practices with the reallocation of funding into appropriation 20.370(5)(bw).

Summary of Public Comments

A notice advertising a public hearing on the creation of section NR 47.65, relating to a new county forest time standards grant, and soliciting public input was posted on the internet on May 20, 2014. A public hearing was held in Chippewa Falls on June 25, 2014. The hearing was attended by eight individuals and all eight expressed support of the proposed rule. Several of those in attendance provided comments to the Department, as described below.

"Support the additional flexibility this proposed change provides county forest programs." – Mike Ludeke

"Why would grant period cover 4 years, will this cause concerns by anticipating funding in the second biennium?" – Tom Rudolph

"Still have reservations for the second budget cycle as a County Board member, but I support State/County working together to achieve a good goal." – Phil Schneider

"I am in favor of the proposed rule because of the additional flexibility that it will provide. The rule was developed carefully and with close cooperation between county forest administrators and the DNR. The 4 year grant period was settled on because we recognized the challenge of shifting resources any more frequently." – Jane Severt

No additional comments were submitted via phone, mail, or email to the Department during the comment period.

Modifications Made

The Department's response to the comments submitted addresses the one concern that was raised, that being the 4 year period that the grant application is to cover. The 4 year period was arrived upon by the ad hoc committee of DNR and county forest representatives that worked together to develop draft language for this rule for a variety of reasons. A 4 year period provides more predictability for both the county forest departments and the Division of Forestry in terms of the amount and type of resources that will be available to each county forest each year. Shifting human resources requires planning and is constrained by the resources available. Shifting DNR resources affects the county forest programs as well as other programs administered by the Division of Forestry. County Forest Administrators and Division of Forestry staff ultimately expressed agreement that a 4 year period provided the best balance between flexibility and predictability. The rule addresses the possibility that sufficient funding may not be available in the second biennium and provides a mechanism for a county to either withdraw the grant request or receive pro-rated funding.

No modifications were made to the proposed rule as a result of public comments and testimony received.

Appearances at the Public Hearing

Robert Skalitzky	– Oconto County Forest Administrator	– In Favor
Dave Borisch	– Oconto County Forester	– In Favor
Greg Sekela	– Oconto County Board - Forestry Committee	– In Favor
Phil Schneider	– Rusk County Board - Forestry Committee	– In Favor
Michael Luedeke	– WI County Forest Association - Board	– In Favor
Tom Rudolph	– WI County Forest Association – Board	– In Favor
Jane Severt	– WI County Forest Association – Exec. Dir.	– In Favor
Dave Ziolkowski	– Forest County Forest Administrator	– In Favor

Changes to Rule Analysis and Fiscal Estimate

No changes were made to the rule analysis and fiscal estimate as a result of public comments and testimony.

Response to Legislative Council Rules Clearinghouse Report

The Legislative Council Rules Clearinghouse submitted comments on 1) form, style and placement in Administrative Code; 2) adequacy of references to related statutes, rules, and forms; and 3) clarity, grammar, punctuation and use of plain language.

Changes to the proposed rule were made to address all recommendations by the Legislative Council Rules Clearinghouse, except for those discussed below.

2.e. – “In sub. (6)(g), it appears that “(e.g. department vacancies)” is unnecessary and should be deleted. [s.1.01(5), (6), and (9), Manual]”

- The Department removed this language from the paragraph and instead included this example as a note under this section. It was important to the Department's partners that this specific example be referenced in the rule.

5.d. – “...the phrase “shall include, but is not limited to,” should be changed to “shall include”. [s.1.01(7)(d), Manual]”

- The Department did not remove “but is not limited to” from the rule text because it was important to the Department and the Department's partners that it be specified that additional application

materials may submitted in addition to those required by rule – to allow an applicant to fully communicate their intent.

5.e. – “The Agency should consider rewriting s. NR 47.65(7)(d)1. to make it easier to read.”

- The Department did not revise s. NR 47.65(7)(d)1., as it is the Department’s opinion that the language as written is as clear as possible. Department staff and partners that will be subject to the rule all have a clear understanding of this paragraph.

5.f. – “In s. NR 47.65(8)(c), “normal” should be replaced with a more specific term, such as “annual”.”

- The Department did not revise s. NR 47.65(8)(c). The term “normal” was selected and retained, as it the Department’s intent that “normal”, in the context in which it is used, may change over time. The use of “normal” currently refers to an audit activity that occurs approximately once every three years, based on Department handbook guidance. The timeframe for these recurring audits has changed over time and may change again in the future. Additionally, s. NR 47.75(9)(c) uses identical language in reference to this recurring audit practice.

Final Regulatory Flexibility Analysis

Economic impacts of this rule are anticipated to be minimal. No comments were submitted to the Department in response to the Economic Impact Analysis that was developed and posted for public input. The Department solicited input from County Forest Administrators in the development of the draft rule language and in the development of the Economic Impact Analysis (EIA), since they are most directly impacted and likely have the best sense of how the rule could affect small businesses. Depending on the level of grant funding utilized by county forests under this grant program and whether grant funds are utilized to hire temporary employees or independent forestry contractors, there could potentially be a small positive impact on the forestry consultant business sector.

Response to Small Business Regulatory Review Board Report

The Small Business Regulatory Review Board did not prepare a report on this rule proposal.