

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor
George E. Meyer, Secretary

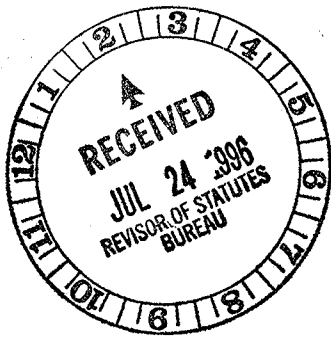
Box 7921
101 South Webster Street
Madison, Wisconsin 53707-7921
TELEPHONE 608-266-2621
FAX 608-267-3579
TDD 608-267-6897

STATE OF WISCONSIN)
) ss
DEPARTMENT OF NATURAL RESOURCES)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, George E. Meyer, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. FR-28-94 was duly approved and adopted by this Department on May 22, 1996. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Natural Resources Building in the City of Madison, this 18th day of July, 1996.



George E. Meyer
George E. Meyer, Secretary

(SEAL)



ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
CREATING RULES

The Wisconsin Natural Resources Board proposes an order to create ch. NR 48 relating to applications to withdraw lands entered as county forest.

FR-28-94

Analysis Prepared by Department of Natural Resources

Authorizing Statutes: s. 227.11(2)(a), Stats.

Statutes Interpreted: s. 28.11(11), Stats.

Wisconsin's County Forests serve multiple public interests including production of forest products and commodities, habitat, watershed protection, groundwater recharge, recreation and aesthetics. With the creation of s. 28.11, Stats., a county-state partnership was established to promote and protect these vital forest resources.

Under s. 28.11(11), Stats., a county may apply to the department to withdraw lands in the county forest program. An application must include the land description, a statement of reasons for withdrawal and any restrictions or other conditions of the use attached to the land proposed for withdrawal. Upon receipt of an application, the department must investigate the application and may hold a public hearing if it deems it advisable and necessary for purposes of the investigation. The investigation must include an examination of the character of the land, the volume of timber, improvements and other special values. If the land proposed for withdrawal is to be transferred to other than the state, federal or a local unit of government, a minimum value must be established for the land.

In making its investigation, the department must give full weight and consideration to the purposes and principles in s. 28.11(1), Stats., and weigh and consider the benefits to the public of the state as a whole, as well as to the county, from the proposed use after withdrawal, against the benefits accruing to the people of the state as a whole and to the county under the continued entry of the lands.

In making its decision on the application, the department must make an order withdrawing the lands if it finds that the benefits after withdrawal outweigh the benefits under continued entry and the lands will be put to a better and higher use, otherwise it shall deny the application.

These proposed rules seek to clarify information required to be submitted as part of the withdrawal application submitted by the county when applying to withdraw county forest lands, the elements of the department's investigation of the application and elements to be considered by the department in making a decision on the application.

SECTION 1. Chapter NR 48 is created to read:

CHAPTER NR 48
COUNTY FOREST WITHDRAWAL

NR 48.01 PURPOSE. The purpose of the this chapter is to interpret and administer the county forest withdrawal provisions of s. 28.11(11), Stats.

Note: County forest includes regular and special use lands; both being subject to s. 28.11(11), Stats., and this chapter.

NR 48.02 DEFINITIONS. (1) "Application" or "application for withdrawal" means an application filed under s. 28.11(11), Stats., to withdraw lands entered as county forest land, including all attachments and information submitted as required by the application form, s. 28.11, Stats., and this chapter.

(2) "Endangered species" has the meaning established in s. 29.415(2)(a), Stats.

(3) "Game species" has the meaning given in s. 29.01(5), Stats.

(4) "Non-game species" has the meaning given in s. 29.01(10), Stats.

(5) "Threatened species" has the meaning given in s. 29.415(2)(b), Stats.

(6) "Wild animal" has the meaning given in s. 29.10(14), Stats.

NR 48.03 COUNTY APPLICATION. (1) GENERAL INFORMATION. All applications shall be on department forms and shall include, unless waived by the department in writing, the following information in connection with the land subject to the application:

Note: Application forms may be obtained from the department's central office. Department of Natural Resources, Bureau of Forestry, P.O. Box 7921, Madison, WI 53707-7921.

(a) The legal description of the land, the acreage proposed to be withdrawn and the acreage remaining following withdrawal in the affected quarter-quarter section, government lot or fractional lot.

(b) The proposed use of the land.

(c) A map showing the location of the land.

(d) The names and addresses of persons who have requested the county to withdraw the land and the names and addresses of prospective purchasers of the land if the withdrawal is approved unless the information is confidential under federal or state law or the legal custodian of the information withholds the information under subch. II, ch. 19, Stats.

(e) Any reservations on the transfer of title, such as a reversionary clause, or other mechanisms to assure compliance with restrictions or conditions of withdrawal.

(f) A copy of the county resolution authorizing the filing of the application.

(g) The attributes of the county forest site that relate to the requested use and a comparison of the site and its attributes with other economically and environmentally feasible sites or areas if other sites or areas were considered.

(h) A description of the potential environmental and forest related benefits and impacts affecting the land.

(i) The historical and archeological background of the land based upon county records and a site examination by county personnel.

(j) Knowledge of the presence of endangered or threatened species of plants or wild animals on the land or in the waters on the land.

Note: The department's investigation will include a review of the natural heritage inventory.

(k) The consideration to be received for the land. If land or money or both is to be received in exchange for the land, the county shall describe

proposed use and disposition including a description and map of any proposed trade lands to be exchanged with the county.

(1) The present and future benefits of the proposed withdrawal action as identified by the county at the time of the application and the decision making process used to identify those benefits.

(m) Other information deemed necessary by the department.

Note: The department's liaison forester is available during the application process to provide technical forestry advice.

(2) DEPARTMENT DECISION ON COMPLETENESS OF THE COUNTY APPLICATION. The department shall determine whether an application for withdrawal is complete and satisfactory within 60 days of its filing. If the department determines the application documents are incomplete, it shall explain to the county why the application is incomplete and what further information is necessary to complete the application process.

Note: A project proponent other than the county may gather all or part of the information required in the application.

(3) WITHDRAWAL OF APPLICATION. The county may withdraw its application at any time prior to issuance of the department's decision under s. NR 48.05.

NR 48.04 DEPARTMENT INVESTIGATION AND FINDINGS. (1) The department's investigation of an application for withdrawal shall include but is not limited to:

(a) An environmental review required by s. 1.11, Stats., and ch. NR 150.

(b) An inspection of the land subject to the application, other land involved in the proposed transfer and other information available to the department describing the land and its values. The inspection shall be conducted by a department forester and other persons deemed appropriate by the department to participate in the inspection.

(c) The holding of a public hearing or informational meeting when deemed necessary by the department or requested in writing by a county making a withdrawal application.

(2) The department decision on the application shall include, but not be limited to, findings on the following:

(a) Compliance of the application with the applicant's county forest comprehensive land use plan.

(b) Disposition and use of all land and funds involved in the proposed withdrawal transaction.

(c) Environmental impacts, including impacts on groundwater, surface water, wetlands, terrestrial resources and other environmentally sensitive areas on the land subject to the application as a result of the proposed use.

(d) Impacts on endangered and threatened species of plants and wild animals.

(e) Impacts on game and nongame species of wild animals.

(f) Impacts on multiple use benefits of the land involved in the withdrawal and the remaining county forest.

(g) Impacts on production of forest products and commodities.

(h) Compliance with s. 1.11, Stats., and ch. NR 150.

(i) The minimum value of the land subject to the application or involved in the proposed withdrawal transaction.

(j) Impacts on archeological and historical values.

(k) Economic impacts of the withdrawal versus continued entry under s. 28.11, Stats.

(1) Whether upon withdrawal the land will be put to a better or higher use and whether the benefits of withdrawal to the people of the state as a whole and the county, outweigh the benefits under continued entry.

(3) In making its findings, the department shall consider, but is not limited to considering:

(a) Alternative land for the proposed purpose which is reasonably available.

(b) Values to the public provided by the land subject to the application which may be lost and not replaced by the purchase and entry of additional land.

(c) Economic, social or other values received by the county or state as a result of sale or exchange of the lands subject to the application.

(d) Impacts on unique resource values.

(e) Public health, safety or welfare impacts.

(f) County forest benefits.

(g) The history of the county's administration and enhancement of the county forests including land acquired and entered as county forest, public use opportunities and facilities developed on the forest.

NR 48.05 DEPARTMENT DECISION. The department's decision on an application for withdrawal may include:

(1) Conditions on the future use and disposition of the lands being withdrawn which are deemed reasonably necessary to protect the values of the county forest and the public.

(2) Conditions upon a specified future use as stated in the application.

NR 48.06 REIMBURSEMENT OF AIDS. Amounts paid to the county and subject to reimbursement under s. 28.11(11)(b), Stats., shall be transferred to other county forest lands if the land withdrawn remains in the ownership of a unit of government, including the state or federal government, or an agency thereof.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on May 22, 1996.

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.

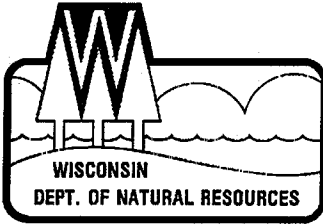
Dated at Madison, Wisconsin July 18, 1996.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

BY: George E. Meyer
George E. Meyer, Secretary

(SEAL)

v:\9612\fr9wdrul.rjm



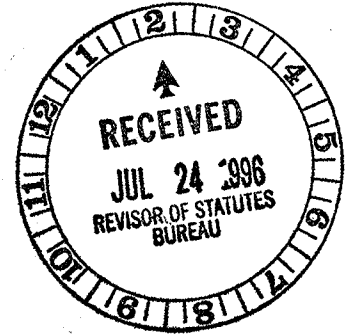
State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor
George E. Meyer, Secretary

Box 7921
101 South Webster Street
Madison, Wisconsin 53707-7921
TELEPHONE 608-266-2621
FAX 608-267-3579
TDD 608-267-6897

July 18, 1996

Mr. Gary L. Poulson
Assistant Revisor of Statutes
131 West Wilson Street - Suite 800
Madison, WI

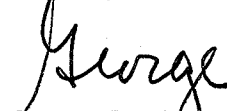


Dear Mr. Poulson,

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. FR-28-94. These rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment and Energy pursuant to s. 227.19, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees are also enclosed.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,


George E. Meyer
Secretary

Enc.