



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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

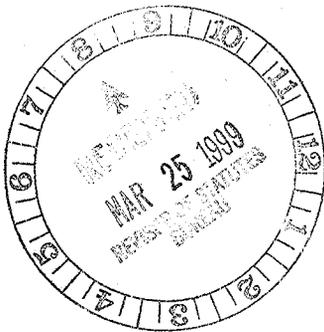
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STATE OF WISCONSIN)
) ss
DEPARTMENT OF NATURAL RESOURCES)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

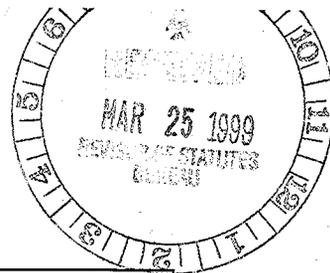
I, George E. Meyer, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. FR-51-98 was duly approved and adopted by this Department on January 27, 1999. I further certify 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 March, 1999.



George E. Meyer
George E. Meyer, Secretary

(SEAL)



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

The State of Wisconsin Natural Resources Board proposes an order to repeal NR 47.06(2)(f)note, 47.07(2) and (3) and 47.56(1)(b)note, (d)note and (2)note; renumbering NR 47.07(4), 47.52(2) to (7), 47.56(3)(a), 47.56(3)(a) 1. to 4., 47.56(3)(b), 47.70(2)(f) and (g), (4)(c) and (d); renumbering and amending NR 47.12(3) and (4); amending NR 47.004(2) and (3)(intro.), 47.005(1), 47.005(3), 47.006(1), 47.007(1), 47.03(2), 47.06(1)(intro.) and (2)(intro.), 47.07(1)(b) to (d), 47.18(2), 47.20(1) and (6), 47.53(2), (3) and (5), 47.54(1) and (3), 47.55(1)(a), (2)(intro.), 47.55(2)(g) and (3)(a), 47.56(1)(b), (d), (2), (3)(a) 2. and 3., 47.57(intro.) and (1) and 47.70(1), (3)(a), (c), (f) and (4)(a); repealing and recreating s. NR 47.58(2) and 47.70(4)(b); and creating NR 47.07(1)(e), 47.52(8), 47.55(2)(i), 47.56(3)(f), 47.70(2)(f) and 47.70(4)(c) relating to forestry grant programs

FR-51-98

Analysis Prepared by Department of Natural Resources

Authorizing statute: NR 47 subchapters I,II,III - 16 USC 2101 et seq.; NR47 subchapter V - 16 USC 2101 et seq., s.23.097 Stats; NR 47 subchapter VI - s. 227.11(2)(a), Stats.

Statute interpreted: s. 28.11(5m), Stats.

Chapter NR 47, establishes rules for the administration of forestry grant programs.

NR 47 subch. I, establishes general provisions for all grant programs. The amended rule allows greater flexibility in reporting requirements and conforms with federal requirements for records retention.

NR 47 subchs. II and III, establish provisions to implement the Forest Stewardship grant program and the Stewardship incentive program. The amended rule reflects the changing views of the Coordinating Committee by easing grant guidelines and reflects changes in the federal guidelines.

NR 47 subch. V establishes provisions to implement the urban forestry grant program. The amended rule will allow not-for-profit organizations to receive partial advances of grant funds. Other changes are proposed to conform language to federal requirements, clarify project and cost eligibility, clarify application procedures, clarify payment procedures, correct language changed by reorganization, and correct an omitted eligible applicant.

Section NR 47.70, establishes provisions to implement the County Forest Administrator Grant program. The amended rule reflects a statutory change for a payment of half the annual salary and half fringe benefit costs of the position. Other changes extend the application filing deadline by two months and establish procedures to spend any unused funds the following year or return them.

SECTION 1. NR 47.004(2) is amended to read:

NR 47.004(2) INTERIM REPORTS. Each grant recipient ~~shall~~ may be required to submit to the department at no less than 3 month intervals, depending on the project period by written request of the department, one or more interim reports which contain details of progress, findings, problems and other information regarding the status of the project a grant.

SECTION 2. NR 47.004(3)(intro.) is amended to read:

NR 47.004(3) FINAL REPORTS. (intro.) Each grant recipient shall submit a final report to the department within ~~60~~ 90 days after the grant expiration date. The final report shall include the following:

SECTION 3. NR 47.005(1) is amended to read:

NR 47.005 Grantee accountability. (1) Applicability. The provisions of this section apply only to subchs. II, IV, ~~and V~~ and VIII.

SECTION 4. NR 47.005(3) is amended to read:

NR 47.005(3) RECORDS RETENTION AND AUDITING. The grantee shall retain all records pertaining to its project and make them available to the department on request for ~~one year~~ 3 years from the date of the final payment.

SECTION 5. NR 47.006(1) is amended to read:

NR 47.006 Grant variances. (1) The department may approve in writing variances from nonstatutory requirements of this ~~subchapter~~ upon request of the grantee when it is determined that variances are essential to effect necessary actions or department objectives, and where special circumstances make variances in the best interests of the state. Before granting a variance, the department shall take into account factors such as good cause, circumstances beyond the control of the grantee and financial hardship.

SECTION 6. NR 47.007(1) is amended to read:

NR.007 Grant termination. (1) The provisions of this section apply only to subchs. II, IV, ~~and V~~ and VIII.

SECTION 7. NR 47.03(2) is amended to read:

NR 47.03(2) Applications for grants shall be received by the department ~~prior to~~ no later than the close of business on November 1 unless otherwise provided for on the application.

SECTION 8. NR 47.06(1)(intro.) is amended to read:

NR 47.06(1)(intro.) A project is eligible for funding under this subchapter if the project is capable of and directed towards achieving one or more of the following. Additionally, special emphasis may be placed, on an annual basis, in one of the following areas if designated in the application:

SECTION 9. NR 47.06(2)(intro.) is amended to read:

NR 47.06(2)(intro.) In selecting projects for grant assistance, the department shall give preference to projects which are directed to accomplish one or more of the following+. Preference to any area may be weighted based upon the recommendations of the forest stewardship coordinating committee and acceptance by the state forester.

SECTION 10. The note following NR 47.06(2)(f) is repealed.

SECTION 11. NR 47.07(1)(b) is amended to read:

NR 47.07(1)(b) The cost of necessary supplies and equipment used exclusively for project-related purposes over its useful life or the cost of that portion of supplies or equipment used for the project;

SECTION 12. NR 47.07(1)(c) is amended to read:

NR 47.07(1)(c) The costs of leased equipment and facilities for the length of the ~~demonstration~~ project;

SECTION 13. NR 47.07(1)(d) is amended to read:

NR 47.07(1)(d) The reasonable value of in-kind contributions by the applicant of labor, equipment or facilities as supported by documentation reflecting specific assignment to the project.

SECTION 14. NR 47.07(1)(e) is created to read:

NR 47.07(1)(e) Contract costs of qualified vendors to perform project activities.

SECTION 15. NR 47.07(2) is repealed.

SECTION 16. NR 47.07(3) is repealed.

SECTION 17. NR 47.07(4) is renumbered NR 47.07(2).

SECTION 18. NR 47.12(3) is renumbered (4) and as renumbered, is amended to read:

NR 47.12 (4) "~~ASCS~~" "FSA" means the U.S. department of agriculture, ~~agricultural stabilization and conservation service~~ farm services agency.

SECTION 19. NR 47.12(4) is renumbered NR 47.12(3).

SECTION 20. NR 47.18(2) is amended to read:

NR 47.18(2) The amount of payment under the program to any one landowner may not exceed \$10,000 in any fiscal year; although this limit may be lowered at the recommendation of the forest stewardship coordinating committee with concurrence of the state forester. In the case where an individual is not a sole proprietor but is a partner, corporate shareholder or has ownership interest in another private legal entity, the amount of payment to the individual shall be equivalent to the percentage of ownership the individual holds in ~~such~~ the partnership, corporation or other private legal entity times the payment made to ~~such~~ the partnership, corporation or other legal entity.

SECTION 21. NR 47.20(1) is amended to read:

NR 47.20(1) A landowner wishing to participate in the program shall apply at the ~~ASCS~~ FSA office for the county in which the land is located, on ~~ASCS~~ FSA forms.

SECTION 22. NR 47.20(6) is amended to read:

NR 47.20(6) Upon approval of a practice, the landowner shall be notified in writing by the ~~ASCS~~ FSA. ~~Such~~ The notice shall state that the landowner can begin implementing the approved practice.

SECTION 23. NR 47.52(2) to (7) are renumbered (7) and (2) to (6), respectively, and subs. (4) and (7), as renumbered, are amended to read:

NR 47.52 (4) "Not-for-profit organization" includes ~~approved~~ organizations that meet the requirements of section 501(c)(3) of the United States internal revenue code of 1986 and other ~~not-for-profit organizations~~ local community tree volunteer groups.

(7) "~~District~~" "Region" means one of the ~~6 district~~ 5 regional field administrative ~~offices~~ units of the department.

SECTION 24. NR 47.52(8) is created to read:

NR 47.52(8) "Urban forestry" means tree management, operations and education within cities, villages and other concentrated development.

SECTION 25. NR 47.53(2) is amended to read:

NR 47.53(2) Applicants shall submit applications on the prescribed department forms to the ~~district~~ regional office ~~for the district~~ where the applicant is located or as otherwise described by the department.

SECTION 26. NR 47.53(3) is amended to read:

NR 47.53(3) Applications shall be received by the department ~~district~~ regional office no later than close of business on October 1, unless otherwise provided on the application.

SECTION 27. NR 47.53(5) is amended to read:

NR 47.53(5) Successful applicants shall be notified by the department and sent a project agreement. Work under the project agreement may not proceed until the agreement is signed by the department ~~and the applicant~~ and not before the starting date listed on the project agreement.

SECTION 28. NR 47.54(1) is amended to read:

NR 47.54(1) A grant under this subchapter shall be no more than 50% of actual eligible costs except that no grant may exceed \$25,000 or be less than \$1000.

SECTION 29. NR 47.54(3) is amended to read:

NR 47.54(3) ~~No more than 20% of the~~ The department and the USDA forest service may annually negotiate limits on federal monies available for grants under this subsection that may be used to fund tree planting projects.

SECTION 30. NR 47.55(1)(a) is amended to read:

NR 47.55(1)(a) Municipal governments, towns, counties and not-for-profit organizations are eligible to apply for a federally funded grant under this subchapter.

SECTION 31. NR 47.55(2)(intro.) is amended to read:

NR 47.55(2) ELIGIBLE PROJECTS. (intro.) Requests for grant assistance shall relate to urban forestry and may include, but are not limited to, ~~requests for:~~

SECTION 32. NR 47.55(2)(g) is amended to read:

NR 47.55(2)(g) Development and implementation of urban forest management public information or involvement programs; ~~and~~

SECTION 33. NR 47.55(2)(i) is created to read:

NR 47.55(2)(i) Urban forestry operations projects such as planting, pruning, removal and other tree maintenance.

SECTION 34. NR 47.55(3)(a) is amended to read:

NR 47.55(3)(a) Stump ~~or brush~~ removal;

SECTION 35. NR 47.56(1)(b) is amended to read:

NR 47.56(1)(b) The cost of necessary supplies and equipment*. Equipment costing more than \$5,000 per unit is not eligible. To be fully eligible project costs under the grant, a capital purchase shall be used exclusively for project-related purposes over its useful life. Nonexclusive capital purchases may be charged as project costs only for that portion of depreciation equitably related to use in project activities.

SECTION 36. The note following NR 47.56(1)(b) is repealed.

SECTION 37. NR 47.56(1)(d) is amended to read:

NR 47.56(1)(d) The reasonable value of in-kind contributions by the applicant of labor, equipment or facilities. Direct costs shall be supported by time sheets, vouchers or similar documentation reflecting specific assignment to the project. Actual fringe benefits may not exceed the current department fringe rate percentage of the direct labor costs claimed. The rate is established biennially by the department of administration and is available from the department urban forestry coordinators. Equipment rental rates may not exceed the county equipment rates established annually by the department of transportation and published in chapter 5 of the state highway maintenance manual. These rates are also available from the department urban forestry coordinators.

SECTION 38. The note following NR 47.56(1)(d) is repealed.

SECTION 39. The note following NR 47.56(2) is repealed.

SECTION 40. NR 47.56(2) is amended to read:

NR 47.56(2) ELIGIBLE COSTS, NON-REIMBURSABLE. Reasonable value of donated labor, equipment, supplies, facilities or services are eligible project costs for the purposes of match, but are not eligible for reimbursement. To be fully eligible project costs under the grant, a capital donation shall be used exclusively for project-related purposes over its useful life. Nonexclusive capital donations may be charged as project costs only for that portion of depreciation equitably related to use in project activities. Value of donated labor will be calculated using rates established by the department.

SECTION 41. NR 47.56(3)(a)2. is amended to read:

NR 47.56(3)(a)2. Ordinary operating expenses of local government applicants, also known as indirect costs, such as salaries and expenses of a mayor or city council members, that are not directly related to the project;

SECTION 42. NR 47.56(3)(a)3. is amended to read:

NR 47.56(3)(a)3. Costs for which payment has been or will be received under another federal or state financial assistance program except that community development block grants may be used to match urban forestry grants only when it can be demonstrated to the department's satisfaction that there is a local commitment to, and involvement in, the project;

SECTION 43. NR 47.56(3)(a) is renumbered sub.(3)(intro) and subs. 1. to 4. are renumbered pars. (a) to (d) and paragraph (b) is renumbered par.(e).

SECTION 44. NR 47.56(3)(f) is created to read:

NR 47.56(3)(f) Capital purchases that exceed \$5,000.

SECTION 45. NR 47.57 (intro.) is amended to read:

NR 47.57 **Grant selection process.** (intro.) ~~In selecting projects~~ Projects selected for grants under this subchapter, shall relate to urban forestry. ~~When selecting projects,~~ the department may give priority to the following listed in no particular order:

SECTION 46. NR 47.57(1) is amended to read:

NR 47.57(1) Applicants with a ~~department~~ an administrative unit, board or commission charged with the development and administration of a comprehensive tree care program.

SECTION 47. NR 47.58(2) is repealed and recreated to read:

NR 47.58(2) PAYMENT. (a) Not-for-profit organizations may request an advance payment of no more than 50% of the grant upon the awarding of the grant.

(b) Each grantee shall submit to the department a final accounting claim for reimbursement, supported by evidence of cost, within 90 days after the grant expiration date.

(c) Final balance payments for not-for-profit organizations that received an advance, and grant payments for all other grantees, shall be made upon approval of the final report and the final accounting claim.

SECTION 48. NR 47.70(1) is amended to read:

NR 47.70(1) PURPOSE. The purpose of this section is to establish standards and procedures for implementation of a grant program to contribute funds toward payment of the salary and fringe benefits of a professional forester in the position of administrator or assistant administrator of a county forest.

SECTION 49. NR 47.70(2)(f) and (g) is renumbered to NR 47.70(2)(g) and (h).

SECTION 50. NR 47.70(2)(f) is created to read:

NR 47.70(2)(f) "Fringe benefits" means the total annualized costs of a county for an employe excluding any salary.

SECTION 51. NR 47.70(3)(a) is amended to read:

NR 47.70(3)(a) A county may apply for a grant under the county forest administrator grant program. A county shall include in an application a county board resolution authorizing the application. A county shall file the application with the department no later than ~~November 30th~~ January 31st of the grant year preceding the grant year, except for the grant year the rule becomes effective when the application shall be filed no later than May 1, 1994.

SECTION 52. NR 47.70(3)(c) is amended to read:

NR 47.70(3)(c) Except as provided in par. (d), a grant shall be limited to funding annual salary and fringe benefits for a forester employed by a county.

SECTION 53. NR 47.70(3)(f) is amended to read:

NR 47.70(3)(f) Grants shall be distributed no later than April 15 of the grant year, ~~except for the grant year the rule becomes effective when the grants shall be distributed no later than August 1, 1994.~~

SECTION 54. NR 47.70(4)(a) is amended to read:

NR 47.70(4)(a) An annual grant award to a county may not exceed ~~the lesser of 50% of the position's annual salary or the maximum grant amounts established in par. (b) and fringe benefits.~~ Fringe benefit costs may not exceed 40% of the forester's salary.

SECTION 55. NR 47.70(4)(b) is repealed and recreated to read:

NR 47.70(4)(b) All grant funds received from the department shall be deposited in the county state aid forestry account.

SECTION 56. NR 47.70(4)(c) and (d) are renumbered to NR 47.70(4)(d) and (e) and (4)(e)1. and 3., as renumbered, are amended to read:

NR 47.70(4)(e)1. An annual plan of work is jointly developed by the ~~department's district forestry supervisor, the county forest administrator,~~

~~department's liaison forester and the county forestry committee~~ department and the county.

3. The annual plan of work is approved by the county and the department ~~prior to the beginning of the grant year.~~

SECTION 57. NR 47.70(4)(c) is created to read:

NR 47.70(4)(c) Any grant funds not spent on salary or fringe benefit costs in the grant year shall be identified and deducted from the next year's request. If a county does not participate or is not eligible for the grant the next year, the funds shall be returned to the department.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on January 27, 1999.

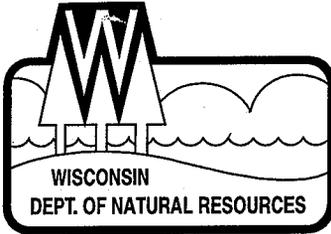
The rules shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2) (intro.), Stats.

Dated at Madison, Wisconsin March 18, 1999

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By George E. Meyer
George E. Meyer, Secretary

(SEAL)



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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

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March 16, 1999

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-51-98. These rules were reviewed by the Assembly Committee on Rural Affairs and Forestry and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform 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.

