

Committee Name:

**Assembly Committee – Rural Affairs and Forestry
(AC–RAF)**

Appointments

01hr_AC–RAF_Appt_pt00

Committee Hearings

01hr_AC–RAF_CH_pt00

Committee Reports

01hr_AC–RAF_CR_pt00

Clearinghouse Rules

01hr_AC–RAF_CRule_01–146

Executive Sessions

01hr_AC–RAF_ES_pt00

Hearing Records

01hr_ab0000

01hr_sb0000

Misc.

01hr_AC–RAF__Misc__pt00

Record of Committee Proceedings

01hr_AC–RAF_RCP_pt00



*all seem ok to me.
No hearings unless requested
by other members)*

OK

John Ainsworth

State Representative • 6th Assembly District

Chair: Assembly Committee on Rural Affairs

MEMORANDUM

To: Members of the Assembly Committee on Rural Affairs and Forestry

From: Chairperson John Ainsworth

Date: March 14, 2002

Re: Clearinghouse Rule 01-146

On Thursday, March 14, 2002, the following Clearinghouse Rule was referred to the Assembly Committee on Rural Affairs and Forestry:

Clearinghouse Rule 01-146, AN ORDER relating to forest fire protection grants and sustainable forestry grants for county forests.

The deadline for committee action on this rule is **Monday, April 15, 2002**. If you would like a copy of the rule, or are interested in requesting a hearing, please contact Kristina Boardman in my office at 266-3097 prior to that date.



DATE: March 14, 2002

TO: Kristina Boardman

Committee on Rural Affairs and Forestry

FROM: John Scocos, Assembly Chief Clerk

RE: Clearinghouse Rules Referral

The following Clearinghouse Rule has been referred to your committee.

CLEARINGHOUSE RULE 01-146

AN ORDER to amend NR 47.008 (1) and 47.903 (3) and (6); and to create NR 47.75, relating to forest fire protection grants and sustainable forestry grants for county forests.

Submitted by **Department of Natural Resources.**

Report received from Agency on **March 6, 2002.**

To committee on **Rural Affairs and Forestry.**

Referred on **Thursday, March 14, 2002.**

Last day for action - **Monday, April 15, 2002.**

Under section 227.19 (4) of the Wisconsin Statutes, your committee has 30 days to take action or get an extension. The day **after** the official referral date is day one of your review period. Therefore, the 30th day should fall four weeks and two days after the referral date. For example, for Clearinghouse Rules referred on a Monday, a Wednesday would be your 30th day. For Clearinghouse Rules referred on a Tuesday, a Thursday would be your 30th day. For Clearinghouse Rules referred on a Wednesday, a Friday would be your 30th day. For Clearinghouse Rules referred on a Thursday or Friday, your 30th day would fall on a weekend. Therefore, your time would expire on the next working day (Monday) as provided for in s. 990.001 of the Wisconsin Statutes. Also, if the 30th day falls on a legal holiday, time would expire on the next working day.

Section 227.19 **requires** you to notify each member of your committee that you have received this Clearinghouse Rule. Although some committee chairs do so, you are not required to send a copy of the text of the rule to each member at this time. Your notice could state that members should contact you if they wish to receive a hard copy of the rule. (Please note that, unlike bills and amendments, the text of Clearinghouse Rules is not currently available online. However, LTSB is currently working on such a project.) Please put a copy of your official notification memo in the rule jacket.

Three copies of the Clearinghouse Rule and its accompanying documents are contained in the jacket. If you wish to have your Legislative Council attorney review the Clearinghouse Rule, send him/her a copy. I only need one copy remaining in the jacket when you report it out of committee at the end of the review period.

The identical process is happening simultaneously in the Senate. Keep track of their action on the rule.

For assistance with the Clearinghouse Rule process, please consult Ken Stigler (6-2406) or your Legislative Council attorney. If you wish to learn more on this subject, read section 227.19 of the Wisconsin Statutes or part 2 of the *Administrative Rules Procedures Manual* written by the Revisor of Statutes Bureau and the Wisconsin Legislative Council staff.

**NOTICE TO PRESIDING OFFICERS
OF PROPOSED RULEMAKING**

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Natural Resources Board Order No. FR-9-02

Legislative Council Rules Clearinghouse Number 01-146

Subject of Rules FOREST FIRE PROTECTION GRANTS
AND SUSTAINABLE FORESTRY GRANTS FOR COUNTY
FORESTS

Date of Transmittal to Presiding Officers MARCH 6, 2002

Send a copy of any correspondence or notices pertaining to this rule to:

Carol Turner, Rules Coordinator
DNR Bureau of Legal Services
LS/5, 101 South Webster

Telephone: 266-1959
e-mail: turnec@dnr.state.wi.us

An electronic copy of the proposed rule may be obtained by contacting Ms. Turner

REPORT TO LEGISLATURE

NR 47, Wis. Adm. Code
Forest fire protection grants and sustainable forestry
grants for county forests

Board Order No. FR-9-02
Clearinghouse Rule No. 01-146

Statement of Need

Section NR 47.75 is being created to administer the sustainable forestry grant. A \$200,000 continuing appropriation, to be provided annually, was approved in the last budget to promote sustainable forestry on county forest lands. The proposed rules address the purpose, eligibility, application procedures, selection criteria, audit procedures and general provisions for this grant.

Minor rule changes for the administration of the forest fire protection grant are proposed. The changes will modify ss. NR 47.008(1) and 47.903(3) and (6) and 47.905(2). In the past it has been difficult for fire departments and municipalities to budget effectively given the application deadline of October 1. Grants were awarded so late in the calendar year fire departments had difficulty incorporating the awards in their budget process. The application deadline is being moved to July 1 to best accommodate the January to December fiscal year that most municipalities employ.

A second rule change to this grant concerns the current requirement that the municipality or fire department sign the grant agreement prior to initiating a purchase or conducting work. This is inconsistent with other grants we administer and retards the process. The DNR's approval is sufficient to authorize the municipality or fire department's action. The money is not actually encumbered until the signed agreement is returned.

Lastly, statute changes in the last budget authorized applicants for this grant to purchase forest fire prevention and forest fire training materials. Changes to s. NR 47.905(2) add these to the list of eligible items and in doing so make the administrative rule read the same as the statute that authorizes this grant program.

Modifications as a Result of Public Hearing

The changes to s. NR 47.905(2) were added as a result of a written comment.

Appearances at the Public Hearings and Their Position

January 14, 2002 – Madison – no appearances

January 15, 2002 – Wausau

In support: Colette Matthews, Wis. County Forests Association, 518 W. Somo Ave., Tomahawk, WI 54487

In opposition – none

As interest may appear – none

Response to Legislative Council Rules Clearinghouse Report

The recommendations were accepted, except for:

Comment 1 related to the requirement in s. 26.145(2)(b), Stats., that the department not award a grant under this section unless the recipient of the grant enters into a written agreement with the department under which the recipient agrees to assist the department in the suppression of forest fires. The clearinghouse felt this conflicted with the proposed change that department approval was sufficient to authorize the fire department's or municipality's action. The Clearinghouse confuses the use of the word agreement that is in the statute with the one that is referenced in the administrative rule. Section 26.245, Stats., requires that an agreement be signed with the recipient before they are eligible for a Forest Fire Protection Grant. This suppression agreement is actually a memorandum of understanding between the fire organization and the department. This requirement for a suppression agreement is verified before the recipient is even considered eligible for a grant. The grant agreement referred to in s. NR 47.903 is the document that is used as a grant contract agreement, which states to the recipient that they have been awarded a grant and the procedures that they are to follow in completing the grant.

Comment 4.c. included a question as to whether the technical forestry assistance the department provides to the counties as referenced in s. 28.11(5) and (6) should be quantified in terms of dollars rather than time. Since 1994, most recently revised in 2000, the counties and the department mutually agreed that allocations of time are the most equitable manner of measuring the department's contributions to the county forest program.

Comment 4.e. recommended changing "state aid forestry account" in s. NR 47.75(9)(b) to "forestry fund account" to be consistent with s. 28.11(8)(b)3., Stats. This was not adopted because the state aid forestry account is a *county* held account in which each of the respective county forests deposit money they receive from the state. The forestry fund account referenced in the statutes is a state held account *out* of which acreage payments to towns, project loans and variable acreage share loans are paid to the counties.

Comment 5.e. states that a conflict exists in that on one hand the grants "may not be used to fund work required by the department as part of its obligation under the county forest time standards" yet, s. NR 47.75(4)(c) requires that "projects eligible for the grants be suitable as short term unanticipated workload items as identified in the annual adjustment category of the county forest time standards". A definition of annual adjustment category was added to sub. (3)(g) and extra language was added to sub. (5)(b) to clarify. The annual adjustment hours are not part of the minimum hours required under the county forest time standards. They are additional hours, as staff time would allow, in a given year.

Final Regulatory Flexibility Analysis

The proposed rules do not regulate small businesses; therefore, a final regulatory flexibility analysis is not required.

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

The State of Wisconsin Natural Resources Board proposes an order to amend NR 47.008(1) and 47.903(3) and(6) and to create NR 47.75 and 47.905(2)(f) and (g) relating to forest fire protection grants and sustainable forestry grants for county forests

FR-9-02

Summary Prepared by Department of Natural Resources

Statutory authority: ss. 26.145, 28.11(5r) and 227.11(2)(a), Stats.
Statutes interpreted: ss. 26.145 and 28.11(5r), Stats.

Sustainable Forestry Grant - A \$200,000 continuing appropriation, to be provided annually, was approved in the last budget to promote sustainable forestry on county forest lands. Rules will address the purpose, eligibility, application procedures, selection criteria, audit procedures and general provisions for sustainable forestry grants.

Forest Fire Protection Grant - The changes will modify ss. NR 47.008(1) and 47.903(3) and (6) and create NR 47.905(2)(f). In the past it has been difficult for fire departments and municipalities to budget effectively given the application deadline of October 1. Grant awards were made so late in the calendar year fire departments had difficulty incorporating the awards in their budget process. The application deadline is moved to July 1 to best accommodate the Jan.-Dec. fiscal year that most municipalities employ. The second rule change to this grant concerns the current requirement that the municipality or fire department sign the grant agreement prior to initiating a purchase or conducting work. This is inconsistent with other grants we administer and retards the process. The Department's approval is sufficient to authorize the municipality or fire department's action. The money is not actually encumbered until the signed agreement is returned. The creation of NR 47.905(2)(f) and (g) adds forest fire prevention and forest fire training materials to the list of eligible uses of grant funds.

SECTION 1. NR 47.008(1) is amended to read:

NR 47.008(1) The provisions in this section apply only to subchs. II, IV, V, VIII and IX.

SECTION 2. NR 47.75 is created to read:

NR 47.75 Sustainable forestry grant for county forests. (1) **PURPOSE.** The purpose of this section is to establish standards and procedures for implementation of a grant program to contribute funds to sustainable forestry practices on county forests under s. 28.11(5r), Stats.

(2) **APPLICABILITY.** This section is applicable to those counties that have land entered under s. 28.11(4), Stats., as county forest and which apply for a sustainable forest management grant.

(3) **DEFINITIONS.** As used in this section:

(a) "Comprehensive county forest land use plan" means the document governing management of the county forest which has been approved by the county board and the department, s. 28.11(5), Stats.

(b) "County" means a county that has entered county-owned land under the county forest law, ss. 28.10 and 28.11, Stats.

(c) "County forest time standards" refers to the agreement between the department and a county that quantifies the amount of technical forestry assistance the department provides to the county to fulfill s. 28.11(5) and (6), Stats., responsibilities

(d) "Fiscal year" means the time period commencing at July 1 and ending on June 30.

(e) "Forester" has the meaning given in s. NR 1.21(2)(e).

(f) "Sustainable forestry" has the meaning given in s. 28.04(1)(e), Stats.

(g) "Annual adjustment category" means that part of the county forest time standards that identifies time needed to complete short term projects in excess of the required minimum core hours. The quantity of these hours is adjusted annually by mutual agreement of the department and the county.

(4) ELIGIBLE PROJECTS. To be eligible for a sustainable forestry grant:

(a) Projects shall promote sustainable forestry on the county forest and may include, but are not limited to any of the following:

1. Salvage, treatment or reforestation operations stemming from storms, insects, disease or fire.
2. Initial reconnaissance of new acquisitions.
3. Initial geographic information system development.
4. Integrated planning efforts between county forests.
5. Efforts to improve marketing.
6. Short-term, accelerated efforts at timber marking, reconnaissance, regeneration harvest establishment or timber stand improvement to reduce backlogs of overdue practices.
7. Biotic inventories.
8. Timber theft prevention.
9. Development and implementation of road access plans.
10. Initial gathering of global positioning system data.
11. Forest certification efforts.
12. Other projects fitting eligibility in pars. (b) and (c).

(b) Projects shall be consistent with a county's comprehensive county forest land use plan under s. 28.11(5)(a), Stats.

(c) Projects shall be suitable as a short term and unanticipated workload item as identified in the annual adjustment category of the county forest time standards.

(d) A grant under this section may be awarded to a county to contribute to the funding of a subcontractor for the purposes described in par. (a).

(5) INELIGIBLE PROJECTS. (a) Ineligible projects include, but are not limited to:

1. Land acquisition.

2. Permanent staff salary or benefits.
3. Upgrade or replacement of existing computer software and hardware.
4. Land surveying.

(b) Grants may not be used to fund work required by the department as part of its obligation under the county forest time standards.

(c) Grants may not be used to fund projects that are ongoing in nature and a regular inclusion in an annual work plan.

(6) APPLICATION AND GRANT PROCEDURE. (a) Other than as provided in par. (c), a county may apply for a sustainable forestry grant under this section for the purposes described in sub. (4). The application shall include, but is not limited to, all of the following:

1. Documentation of approval by county forestry committee as identified in s. 28.11 (3)(a), Stats., specifying the county's decision to apply for a sustainable forestry grant.
2. The project description including: maps, an estimated cost breakdown and a short narrative to be signed and approved by the county forest administrator and the department liaison forester.
3. Other information the department feels necessary and requests within 20 days following receipt of the application.

(b) Grant applications shall be for a minimum of \$1000.00 with a maximum not to exceed 25% of the total available funds in any one year. Applications shall be filed by the county with the department's division of forestry.

Note: The mailing address is WI DNR, Division of Forestry, P.O. Box 7921, Madison, WI. 53707-7921 Attn: County Forest Specialist.

(c) A county is ineligible to apply if any of the following occur:

1. Current management or internal policy is in opposition to the county forest land use plan.
2. Previous unexpended funds from this grant program are owed the department as described in sub. (9)(e).
3. A county fails to comply within 3 years to department forestry audit recommendations.

(7) GRANT SELECTION PROCESS. (a) Grants shall be awarded on a fiscal year basis and applications shall be accepted during the application periods in this section as follows:

1. The first application period shall be from July 1 to August 15. Decisions on those applications shall be made no later than the following September 15 in accordance with par. (b).
2. The second application period shall be from August 16 to December 1. Decisions on these applications shall be made in accordance with par. (b) no later than January 1.
3. All other applications received from December 2 to June 30 shall be approved on a first-come, first-serve basis.

(b) In selecting projects for grants under this section, the department shall give priority to eligible projects as follows:

1. First preference:

a. Storm-related projects.

b. Hiring of temporary staff to address short-term workload items identified in sub. (4).

2. Second preference: All other projects eligible under sub. (4).

(c) Within a preference category, projects in counties that have received grants the most recently shall be given lowest priority.

(d) If, after ranking a project in accordance with pars. (a) and (b), full funding is not available due to insufficient funds to provide grants applied for in the first 2 application periods, the department shall offer the applicants the choice of receiving pro-rated funding for the project up to the amount of available funding or withdrawal of the application.

(e) No less than 25% of the annual funds shall be kept available for appropriation during the second application period.

(f) A grant under this section may be awarded to a county to contribute to the funding of a subcontractor for the purposes described in sub. (4).

~~(g) No county may have more than 2 open projects at any one time.~~

(8) FUNDING RATES AND CONSTRAINTS. (a) Payment of all grants shall be made at project completion unless an advance payment has been made by the department.

(b) An advance payment of not more than 50% of the grant amount may be paid upon mutual agreement of the county and the department.

(c) The county shall submit information requested by and satisfactory to the department demonstrating project completion.

Note: The mailing address is WI. DNR, Division of Forestry, P.O. Box 7921, Madison, WI. 53707-7921 Attn: County Forest Specialist.

(d) A county may apply more than once in any given calendar year although no county will receive a second grant until all pending initial projects from other counties that meet the criteria in sub. (4) are funded.

(e) An individual county may not be awarded grants totaling more than 25% of total available funds in one fiscal year.

(9) PROJECT COMPLETION ACCOUNTABILITY AND AUDIT PROCEDURES. (a) Grant funds may be spent only on project identified costs.

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

(c) All grant records shall be audited with the normal departmental audit of the county forest program.

(d) An approved project may not exceed 2 years in length unless written approval is obtained from the department.

(e) Any grant funds not spent on project identified costs or not used by the termination date of the project shall be returned to the department. Failure to return the funds shall render a county ineligible for any future grants under this section.

SECTION 3. NR 47.903(3) and (6) are amended to read:

NR 47.903 ~~(3) For funding available following July 1, 1998~~ Beginning in 2002, applications shall be submitted ~~by October 4~~ no later than July 1 of each year unless otherwise provided for on the application.

(6) Applicants who have been selected to receive grants shall be notified by the department and sent a grant agreement for signature and return. No project work may be done or cost incurred until the grant agreement has been signed by the department ~~and the applicant.~~

SECTION 4. NR 47.905(2)(f) and (g) is created to read:

NR 47.905(2) (f) Forest fire prevention supplies.

(g) Forest fire training materials.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on February 27, 2002.

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 _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Darrell Bazzell, Secretary

(SEAL)

Fiscal Estimate — 2001 Session

- Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number NR 47.75 and NR 47.903

Subject
 Sustainable Forestry Grant Program to County Forests and Forest Fire Protection Grant

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Increase Costs — May be possible to absorb within agency's budget.

Yes No

Decrease Costs

Local: No Local Government Costs

1. Increase Costs
 Permissive Mandatory
 2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:

- Towns Villages Cities
 Counties Others
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Chapter 20 Appropriations

20.370(5)(bw)

Assumptions Used in Arriving at Fiscal Estimate

SUMMARY OF NEW RULE NR 47.75 AND REVISION OF NR 47.903 - The revision to 47.903 will affect subchapter VIII. Forest Fire Protection Grant Program. The revision improves customer service to grant applicants and improves consistency among other DNR grant programs. The new rule for NR 47.75 establishes administrative rules for the Sustainable Forestry Grant Program for County Forests.

FISCAL IMPACT -

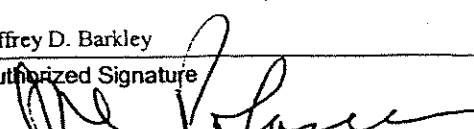
Revision to subchapter VIII will have no fiscal impact.

NR 47.75 Rules

The state budget provides \$200,000 in forestry SEG funds for the Sustainable Forestry Grant Program for County Forests starting in FY01-02 and annually thereafter. Administration of the grant will require 1/10 FTE from existing Forestry personnel. This time will split between central office staff.

Long-Range Fiscal Implications

Improved profitability of County Forests

Prepared By: Jeffrey D. Barkley	Telephone No. 264-9217	Agency DNR
Authorized Signature 	Telephone No. 4	Date (mm/dd/ccyy) 11-28-01

Fiscal Estimate Worksheet — 2001 Session
 Detailed Estimate of Annual Fiscal Effect

Original Updated
 Corrected Supplemental

LRB Number	Amendment Number if Applicable
Bill Number	Administrative Rule Number NR 47.75 and NR 47.903

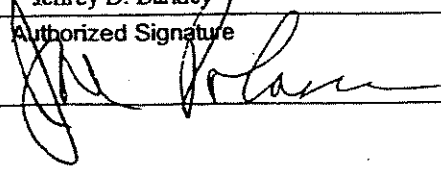
Subject
 Sustainable Forestry Grant Program to County Forests and Forest Fire Protection Grant

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

Annualized Costs:		Annualized Fiscal Impact on State Funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations — Salaries and Fringes		\$ -	\$ -
(FTE Position Changes)		(0.00 FTE)	(- 0.00 FTE)
State Operations — Other Costs		-	-
Local Assistance		\$ 200,000	-
Aids to Individuals or Organizations		-	-
Total State Costs by Category		\$ 200,000	\$ -
B. State Costs by Source of Funds			
GPR		\$ -	\$ -
FED		-	-
PRO/PRS		-	-
SEG/SEG-S		200,000	-
State Revenues	Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Revenue	Decreased Revenue
GPR Taxes		\$ -	\$ -
GPR Earned		-	-
FED		-	-
PRO/PRS		-	-
SEG/SEG-S		-	-
Total State Revenues		\$ -	\$ -

Net Annualized Fiscal Impact

	State	Local
Net Change in Costs	\$ 200,000	\$ -
Net Change in Revenues	\$ -	\$ 200,000

Prepared By:	Telephone No.	Agency
Jeffrey D. Barkley	264-9217	DNR
Authorized Signature	Telephone No.	Date (mm/dd/ccyy)
		11-28-01



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 01-146

AN ORDER to amend NR 47.008 (1) and 47.903 (3) and (6); and to create NR 47.75, relating to forest fire protection grants and sustainable forestry grants for county forests.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

12-06-01 RECEIVED BY LEGISLATIVE COUNCIL.

01-08-02 REPORT SENT TO AGENCY.

RNS:MO:tlujal

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL

RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 01-146

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 September 1998.]

1. Statutory Authority

Section 26.145, Stats., is cited as statutory authority and relates to the proposed amendments to s. NR 47.903. However, s. 26.145 (2) (b), Stats., states: “The department *may not award* a grant under this section *unless* the recipient of the grant enters into a written agreement with the department under which the recipient agrees to assist the department in the suppression of forest fires at the department’s request.” [Emphasis added.] Proposed s. NR 47.903 (6) allows a grant applicant to conduct project work and incur costs before signing such a grant agreement, and therefore appears to be in conflict with s. 26.145 (2) (b), Stats. Moreover, the next-to-last sentence of the first paragraph of the analysis states: “The Department’s approval is sufficient to authorize the municipality or fire department’s action.” That statement appears to be in conflict with s. 26.145 (2) (b), Stats.

2. Form, Style and Placement in Administrative Code

a. In s. NR 47.75 (2), “sustainable forest management grant” should be changed to “sustainable forestry grant” to stay consistent with the definition in s. 28.11 (5r), Stats. This would also be consistent with proposed s. NR 47.75 (4).

b. Section NR 47.75 (3) (f) can simply state: ““Sustainable forestry” has the meaning given in s. 28.04 (1) (e), Stats.””

c. The parenthetical abbreviations should be deleted from s. NR 47.75 (4) (a) 3. and 10.

d. In s. NR 47.75 (4) (a) (intro.), “any of the following” should be inserted before the colon. In sub. (6) (b) (intro.), “any of the following occur” should be inserted before the colon. Section NR 47.75 (7) (a) (intro.) is incorrectly drafted as introductory material; “, as follows:” should replace the final period.

e. In s. NR 47.75 (7) (c), “shall” should replace “will.”

3. Conflict With or Duplication of Existing Rules

In s. NR 47.75, note that section titles are written with an initial capital letter and in bold print. [See s. 1.05 (2) (b), Manual.]

4. Adequacy of References to Related Statutes, Rules and Forms

a. Section NR 47.75 (3) (c) defines “County forest time standards” as referring to “the agreement between the department and a county that quantifies *the amount of technical forestry assistance* the department provides to the county to fulfill ch. 28, Stats., responsibilities.” [Emphasis added.] Which “ch. 28, Stats., responsibilities” does this provision refer to? Those described in the plans required under s. 28.11 (5), Stats.? A more precise citation than “ch. 28, Stats., responsibilities” would be useful. Also, is it appropriate that “the agreement . . . that quantifies the amount of technical forestry assistance the department provides” should quantify in terms of time rather than dollars?

b. In s. NR 47.75 (4) (b), a more precise statutory citation would be useful--presumably here it would be to s. 28.11 (5) (a), Stats.

c. In s. NR 47.75 (9) (b), “state aid forestry account” should be changed to “forestry fund account” to be consistent with s. 28.11 (8) (b) 3., Stats.

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

a. In the last sentence of the analysis, “this grant” should be changed to “sustainable forestry grants.”

b. The analysis would be clearer if the two paragraphs were reversed, since it would then follow the order of both the introductory clause and the body of the order.

c. In s. NR 47.75 (3) (a), should “management on the county forest” be changed to “management of the county forest”?

d. Section NR 47.75 (4) (c) requires projects eligible for sustainable forestry grants to be “suitable as a short term and unanticipated workload item as identified in the annual adjustment category of the county forest time standards.” The definition for “county forest time standards” is created in s. NR 47.75 (3) (c), which does not include a definition for “annual adjustment category.” It is difficult to understand what this provision means.

e. Section NR 47.75 (5) (b) states that grants "*may not* be used to fund work required by the department as part of its obligation under the county forest time standards." [Emphasis added.] But s. NR 47.75 (4) (c) *requires* that projects eligible for the grants be suitable as a short term and unanticipated workload item in the "county forest time standards" agreement. "County forest time standards" are defined in s. NR 47.75 (3) (c) as an agreement that quantifies assistance the department provides the county to fulfill its statutory responsibilities. Therefore, s. NR 47.75 (5) (b) and s. NR 47.75 (4) (c) appear to be in conflict.

f. In s. NR 47.75 (6) (a), second sentence, "shall include, but is not limited to, and shall be filed as follows:" should be changed to "shall include, but is not limited to, all of the following:". Subdivisions 1., 2. and 4. should follow. Subdivisions 3. and 5. should either be drafted as separate paragraphs or included in par. (a) (intro.).

g. There should be a period at the end of s. NR 47.75 (6) (b) 3.

h. In s. NR 47.75 (6) (a) 4. and (b) 3., (7) (d) and (g) and (9) (d), numerals should replace the spelled-out numbers. [See s. 1.01 (5), Manual.]

i. In s. NR 47.903 (3), consideration should be given to deleting all of the material before the colon. In the alternative, the date could be updated. Will the change in that provision first apply to applications submitted in 2002 or in 2003?