

SUBJECT: Request authorization for public hearings on Board Order FR-19-11, relating to NR 47 subch. VII rule revision and subch. XIII rule creation of the Private Forest Landowner Grant Programs.

FOR: APRIL 2012 BOARD MEETING

TO BE PRESENTED BY / TITLE: Carol Nielsen, Private Lands Forestry Specialist

SUMMARY:

The proposed rules address 1) revision to the current Wisconsin Forest Landowner Grant Program (WFLGP) for nonindustrial private forest (NIPF) landowners in subch. VII NR 47 Admin. Code and 2) the establishment of the Weed Management Area Private Forest Grant Program (WMA-PFGP) in subch. XIII NR 47, Admin. Code.

Revisions of NR 47 are proposed to implement changes to WFLGP for NIPF lands and to create the WMA-PFGP to award weed management groups interested in controlling invasive plants on NIPF lands. Creation of the WMA-PFGP will enable the department to award funds to groups by defining application requirements, eligible practices, and requirements for the grants and grant match contributions.

A draft Fiscal Estimate and Economic Impact Analysis has been prepared. The Department has solicited comments and input on the economic impact Board Order FR-19-11 will have on affected parties, including municipal governments, cooperative weed management areas, cooperating foresters, and consultants.

RECOMMENDATION: Authorize the request to conduct public hearings on Board Order FR-19-11

LIST OF ATTACHED MATERIALS:

- | | | | | | |
|----|-------------------------------------|---|-----|-------------------------------------|----------|
| No | <input type="checkbox"/> | Fiscal Estimate Required | Yes | <input checked="" type="checkbox"/> | Attached |
| No | <input checked="" type="checkbox"/> | Environmental Assessment or Impact Statement Required | Yes | <input type="checkbox"/> | Attached |
| No | <input type="checkbox"/> | Background Memo | Yes | <input checked="" type="checkbox"/> | Attached |

APPROVED:

Robert J. Mather
Bureau Director,

Paul DeFronzo
Administrator,

Matt Murphy
Secretary, Cathy Stepp

3/16/2012
Date

3/17/12
Date

4/2/12
Date

cc: NRB Liaison
DNR Rules Coordinator

DATE: March 16, 2012

TO: Natural Resources Board Members

FROM: Cathy Stepp

SUBJECT: Background memo on Board Order FR-19-11, relating to NR 47 subch. VII rule revision and subch. XIII rule creation of the Private Forest Landowner Grant Programs.

Subject of Proposed Rule:

The proposed rule addresses 1) revision to the current Wisconsin Forest Landowner Grant Program (WFLGP) for non-industrial private forest (NIPF) landowners in subch. VII NR 47 Admin. Code and 2) the establishment of Weed Management Area Private Forest Grant Program (WMA-PFGP) in subch. XIII NR 47, Admin. Code.

1. Why is the rule being proposed?

A review of the 12 year old WFLGP was completed by the Division of Forestry's Private Land Management Specialist Team to identify ways to streamline administration, more efficiently use the dollars available and to continue to address landowner and forest resource needs. The team included internal forestry and wildlife staff, and external landowner, consulting forester and educator representatives.

As directed in 2007-09 Biennial Budget (*2007 Wis. Act 20*), the department is proposing to create subch. XIII NR 47 to establish the rules for administering and implementing a cost-share grant program for controlling invasive plants in weed management areas (WMA-PFGP).

2. Summary of the rule.

Revisions of subch. VII NR 47, Admin. Code are proposed to implement changes to the Wisconsin Forest Landowner Grant Program (WFLGP) for NIPF lands including practice description and priorities, grant calculation, allowable costs, and eligibility for applicants and practices.

Creation of subch. XIII NR 47, Admin. Code will enable the department to award funds to weed management groups interested in controlling invasive plants on NIPF lands in weed management areas (WMA-PFGP), by defining application requirements, eligible practices and costs, and rules for administration.

Proposed revisions of subch. VII NR 47 Forest Landowner Grant Program

These recommendations were developed through a review of the existing program and are recommended to provide greater flexibility in meeting landowner and program goals, more efficient use of funding, and to address current and future resource needs identified in the Statewide Forest Strategy.

- **Modify rule to allow the department to annually set funding levels and priorities.** Currently funding levels for practices are set in rule. This change would allow the department to be more responsive to changing forest resources concerns, address statewide forest strategies and respond to private forest landowner needs.

- **Modify application deadlines from four to two and allow for additional dates to be established on the application.** This will allow the department to be more responsive to landowner needs as the deadlines for other related programs change (e.g., MFL application deadline).
- **Modify rule to limit matching grants to not more than 75% of actual costs.** Currently matching grants cannot be less than 50% nor more than 65%. Providing for up to 75% will allow for focusing funding on higher priority resource and landowner needs (e.g., recovery after a catastrophic event).
- **Modify grant period from 18 to 24 months.** The grant period is being expanded to respond to landowner needs to implement the practices and to decrease the dollars that may otherwise be returned when a practice is not fully implemented.
- **Create a waiting period (24 months) for individuals who fail to use any portion of the funds awarded before the grant expires.** Since this grant program is not a continuing appropriation any grants awarded in a biennium and not used cannot be given out again. This revision would encourage landowners who are awarded a grant to complete the practice or return the money earlier so it can be awarded to another landowner. This would not be applied when circumstances are beyond the landowners control.
- **Update practice descriptions to reflect changes in practice components and purposes.**
- **Modify language to allow for the use of nonprofit organization funding similar to federal funding currently provided for in the rule.**

Creation of subch. XIII NR 47 Weed Management Area Private Forest Grant Program

- **Define eligible and ineligible applicants.** Weed management groups (WMG), non-profit organizations, government entities may be applicants as long as funds are being used on NIPF land. A WMG consists of 3 or more persons of which at least one must be a person participating.
- **Define eligible practices.** Education and outreach if it pertains to invasive plants; inventory, control, and monitoring of invasive plants; development of long-term management plans; and establishing a WMG are all eligible practices under this grant program.
- **Define eligible costs and ineligible costs.** Eligible costs are those identified in the application and are associated with implementing eligible practices. Ineligible costs are those incurred before grant is awarded; practices that have not been approved by the department; costs to repair damages caused by implementing a practice, work on industrial forests; work on public land and travel to and from sites.
- **Create grant criteria.** The department will review applications to determine if the practice is needed and feasible, that there is evidence of at least one participation agreement at the time of application, and that there is a person participating who owns 500 acres or less of NIPF land.
- **Create grant selection criteria.** Preference will be given to projects which accomplish one or more of the following criteria: work on prohibited invasive plants, work on early detection species, protect sustainability of forest lands, applicants have a long-term management plan, work on forested land that is not heavily infested with invasive plants, or forest land where invasive plant species may be contained or eradicated.
- **Define rapid response practices.** These practices aid the department in allowing for control of prohibited or early detection invasive plant populations. Grant applications for rapid response practices are accepted at any time of year to offer more flexibility with prohibited or early detection invasive plant control. The department may cover up to 100% of the eligible costs for rapid response practices.
- **Create requirements for payment, reconsideration, and enforcement.** Reports detailing work completed are due before payment will be awarded. If grant extensions are needed due to conditions beyond the applicant's control, the department can award up to a one year extension. If

funds are used for ineligible practices or costs, reimbursement may be withheld.

- **Allow** for other state, federal, or non-profit organization funds to be distributed through this program.

3. How does this proposal affect existing policy?

The proposed revisions to subch. VII are mostly administrative and will update eligible practices and streamline existing procedures. The proposed creation of subch. XIII does not have any related existing policies.

4. Has Board dealt with these issues before?

The Board has dealt with modifications to Subch. VII NR 47 WFLGP in 2002 (CR 02-074) and 2005 (CR 05-087) to establish and then modify the distribution of funds, to modify application deadlines (both times), to allow other state and federal funds to be distributed through WFLGP, and to modify the range for matching grants.

5. Who will be impacted by the proposed rule? How?

Subch. VII –

NIPF landowners wishing to apply for grants to create a forest stewardship plan or implement a forestry practice on their land, cooperating foresters, and resource managers or other private businesses that may be hired by a landowner to implement a practice under the grant program have been positively impacted by this voluntary cost-share grant program from its inception.

Subch. XIII –

The impact will be to any party, organized landowner group, or organization owning less than 500 acres of NIPF land wishing to apply for a grant for the control of invasive plants; federal, state, and local agencies interested in the control of invasive plants on NIPF land; and any cooperating forester, restoration/landscape consultant, farm coop or other private businesses that may be hired to implement a practice under the grant program.

6. Soliciting public input on economic impact synopsis

One comment was received from a cooperating forester stating that there would not be an economic impact associated with the proposed rule change and rule creation.

7. Environmental Analysis

Department staff has determined that the proposed rule changes do not require an environmental analysis. The issues addressed in the rule changes primarily affect administrative efficiency and as such, would fall under Wis. Admin Code NR 150.03(6)(a)3.b. as a Type III action, which does not require and environmental analysis.

8. Small Business Analysis

The total amount of funding from the WFLGP appropriation under s. 20.370 (5) (av), Wis Stats. is not changing from the past amounts; therefore the overall secondary effect on small businesses will be the same as it has been in the past. The only change is to shift \$60,000 of the WFLGP funds to be awarded through WMA-PFGP; this shift in funds will have a positive secondary impact on small businesses that provide services or equipment for controlling terrestrial invasive plants.

**ADMINISTRATIVE RULES
FISCAL ESTIMATE AND
ECONOMIC IMPACT ANALYSIS**

Type of Estimate and Analysis

Original Updated Corrected

Administrative Rule Chapter, Title and Number

NR 47 Subchapter VII– The Private Forest Landowner Grant Program, and Subchapter XIII – The Weed Management Area Private Forest Grant Program. FR-19-11

Subject

NR 47 Subch. VII – Rule revision and Subch. XIII – Rule creation.

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Chapter 20 , Stats. Appropriations Affected

s. 20.370 (5) (av), Stats.

Fiscal Effect of Implementing the Rule

No Fiscal Effect
 Indeterminate

Increase Existing Revenues
 Decrease Existing Revenues

Increase Costs
 Could Absorb Within Agency's Budget
 Decrease Costs

The Rule Will Impact the Following (Check All That Apply)

State's Economy

Local Government Units

Specific Businesses/Sectors

Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

Policy Problem Addressed by the Rule

Wis. Stats. 26.38 Forest Grant Program (2m) (a) The Department of Natural Resources shall establish a program to award grants for developing and implementing forest stewardship management plans by owners of nonindustrial private forest (NIPF) land and award grants to groups of interested parties for projects to control invasive plants in weed management areas.

Subch. VII revisions will amend policy issues and implement updates and improvements to the program related to the implementation and administration, including practice description and priorities, grant calculations, allowable costs, funding sources, and eligibility of applicants who previously failed to use or misused grant funds.

Subch. XIII rule development will implement a cost-sharing grant program for controlling invasive plants in weed management areas on NIPF lands. This includes administration, practice description and priorities, grant calculations, allowable costs, and eligibility for applicants and practices.

Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

Subch. VII – There will be no change to the current economic impact based on the proposed rule revisions as the amount of funding and eligibility are not changing. NIPF landowners wishing to apply for grants to create a forest stewardship plan or implement a forestry practice on their land, cooperating foresters, and resource managers or other private businesses that may be hired by a landowner to implement a practice under the grant program have been positively impacted by this voluntary cost-share grant program from its inception.

Subch. XIII – There will be a small positive impact with the implementation of this new voluntary cost-share grant program, with \$60,000.00 awarded annually. The impact will be to any party, organized landowner group, or organization owning less than 500 acres of NIPF land wishing to apply for a grant for the control of invasive plants; federal, state, and local agencies interested in the control of invasive plants on NIPF land; and any cooperating forester, restoration/landscape consultant, farm coop or other private businesses that may be

hired to implement a practice under the grant program.
For both subchapters, there are administration costs that will be absorbed by the department.
During the solicitation period, one comment was received from a cooperating forester stating that there would not be an economic impact associated with the proposed rule change and rule creation.

Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Subch. VII – Implementing the rule changes would allow needed improvements and efficiencies in the implementation and administration of the program. The alternative is to continue with the program as is.
Subch. XIII – Benefits of implementing this rule would be to the interested parties who want to control invasive plants or implement a practice for invasive plants. There are currently very limited funds available to persons for controlling invasive plants. Implementing this rule would be well received by all interested parties. If this rule is not implemented, NIPF landowners will either continue paying for the control of invasive plants or they will choose not to control due to cost restrictions.

Long Range Implications of Implementing the Rule

Subch. VII – Increased efficiency in administering the grant program and increased understanding by partners and landowners.
Subch. XIII – Development of a cost-sharing grant program benefits weed management groups who have interest in controlling invasive plants on NIPF land.

Compare With Approaches Being Used by Federal Government

There are no known federal rules or programs that apply directly to the control of invasive plants on NIPF lands. There are several programs that provide cost-sharing for development and implementation of forest stewardship plans on NIPF lands. However, the programs were developed for, and primarily focus on agricultural lands, and the funding is inconsistent. Programs include USDA-Natural Resource Conservation Service (NRCS): Environmental Quality Incentives Program (EQIP) and Conservation Stewardship Program (CSP); and USDA-Farm Service Agency (FSA), Conservation Reserve Program (CRP).

Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

There are no known programs in neighboring states regarding cost-sharing grants for invasive plant control. Michigan, Minnesota, Illinois, and Iowa primarily use federal cost-sharing programs for development and implementation of forest stewardship plans on NIPF lands. Programs include USDA-NRCS: EQIP and CSP; and USDA-FSA, CRP. Illinois is the only one with a state funded cost-sharing program for NIPF lands. The program covers practices similar to WFLGP and is funded from a timber harvest fee.

Name and Phone Number of Contact Person

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April 26, 2007

Joint Committee on Finance

Paper #578

Invasive Species Control (DNR -- Forestry and Parks)

Bill Agency

[LFB 2007-09 Budget Summary: Page 417, #3]

CURRENT LAW

Section 26.38 of the Wisconsin statutes authorizes the Department of Natural Resources (DNR) to establish a program to award grants for developing and implementing forest stewardship management plans by owners of nonindustrial forest land. The grants may be awarded to landowners owning 500 acres or less of nonindustrial private forest land. Forest stewardship management plans developed or implemented with a grant under this section must contain practices that protect and enhance all of the following: soil and water quality, endangered, threatened or rare forest communities, sustainable forestry, habitat for fish and wildlife, and the recreational, aesthetic and environmental benefits that the forest land provides. The statutes require DNR to promulgate administrative rules to implement and administer the program, including the criteria for determining the amount of a matching contribution, and minimum standards which must be included in a forest stewardship management plan.

The Wisconsin Forest Landowner Grant Program (WFLGP) is administered under Chapter 47 subchapter II of the Natural Resources administrative code, which specifies that the matching grants awarded through the program are to be given for not less than 50%, but not more than 65% of eligible costs, with a maximum grant award of \$10,000 annually. Eligible projects include but are not limited to: tree planting, timber stand improvement, road design, fencing, prairie and savanna restoration, creation of wildlife corridors, and vegetation management. Under the rule, DNR gives preference to projects that are directed to accomplish one or more of the following: (a) establish or reestablish forests through regeneration; (b) improve forest stand productivity, vigor, health or value (which may include controlling competing vegetation); (c) encourage sustainability; (d) provide protection of soil and water

resources; (e) include additional land under written forest stewardship management plans; (f) provide protection and enhancement of terrestrial wildlife habitat; or (h) provide endangered, threatened, or rare species habitat enhancement and natural community habitat maintenance and enhancement. Within these, DNR has created two levels of priority: (1) timber stand improvement practices; and (2) all other practices.

In addition, section 23.22 of the statutes requires the Department of Natural Resources (DNR) to establish a statewide program to control invasive species. The Department is directed to encourage cooperation among state agencies and other entities to control invasive species in the state, seek public and private funding for the program, provide education and encourage and conduct research concerning invasive species, and promulgate administrative rules to classify species for the program.

GOVERNOR

Provide \$60,000 beginning in 2008-09 to support cost-sharing projects with local invasive plant management groups through the Wisconsin Forest Landowner Grant Program (WFLGP) and \$50,000 annually from the forestry account of the conservation fund for efforts to detect and monitor the Emerald Ash Borer (EAB).

DISCUSSION POINTS

1. Administration officials indicate the \$60,000 provided under the bill in 2008-09 would be directed toward grants to Cooperative Weed Management Area (CWMA) groups for invasive plant projects identified by the local groups and approved by DNR. Cooperative Weed Management Areas represent partnerships of federal, state, and local government agencies; tribes; individuals; and various interested groups that manage noxious weeds or invasive plants in a defined area. CWMAs share a common geography, weed problem, community, climate, political boundary, or land use. There is no specific certification process for establishing a CWMA. According to the Midwest Invasives Plant Network (MIPN), a formal CWMA is a local weed management group that is: (a) led by a steering committee; (b) formally organized under an agreement; and (c) committed to facilitating cooperation and coordination across all jurisdictional boundaries. The Department indicates that it would use criteria similar to those used by the MIPN to determine whether a group is considered a formal CWMA. Currently, one formal CWMA, the Northwoods CWMA, has been established in Wisconsin (in May, 2006). The Northwoods CWMA shares resources and jointly pursues funding opportunities aimed at controlling non-native invasive plants in Ashland, Bayfield, Douglas, and Iron Counties. Additionally, several informal regional and county weed management groups exist throughout Wisconsin including groups in: Brown County, Door County, Greater Sauk County, Monroe County, and in portions of Central, Northeastern, Southeast, and Western Wisconsin.

2. Under the bill, funding would be provided from the appropriation which is used for the Wisconsin Forest Landowner Grant Program (WFLGP). The bill does not specify that this

funding must be used for any particular type of eligible activity within that program. (The program has a base budget of \$1,650,000 annually).

3. The WFLGP program provides grants to landowners who own at least 10, but less than 500 acres of private, nonindustrial forest land. DNR forest grant program staff indicate that groups such as partnerships, corporations, and limited liability corporations (LLCs) are eligible to receive WFLGP grants as long as the group meets the program eligibility requirements (including owning at least 10 but not less than 500 acres of private forestland). However, as CWMA groups do not own land as a group, under current law and administrative rule, they would not be eligible to receive WFLGP grants. Therefore, a statutory change would be necessary in order to make CWMA groups (as defined by DNR rule) eligible for WFLGP grants. The Department indicates that it would then direct the funding to be used for grants to CWMA groups through a modification to administrative rule NR 47.

4. The Department argues that working through local groups provides a structure for emphasizing projects that will have the greatest impact in reducing invasive plant problems over wider geographic areas and longer time frames. Invasive plants easily cross property boundaries, and therefore a coordinated control effort is necessary. Cooperative Weed Management Area groups would utilize the cost-share funds to control invasive plants on priority sites that have been identified locally and approved by the Department. Although only one formal CWMA has been established in Wisconsin (in May, 2006), the Department anticipates that many of the informal local weed management groups would establish formal CWMA groups if these cost-share grants were to become available.

5. The Department indicates that developing this program would position the state to receive federal funds that are likely to be appropriated to implement the federal Noxious Weed Control and Eradication Act. This federal funding would be distributed to states for the purpose of providing cost-share assistance to eligible weed management entities.

6. The Department indicates that invasive species control efforts would fall under the highest priority level for WFLGP grants (timber stand improvement). The Department argues that invasive control efforts by groups are more effective than individual efforts. One alternative could be to specify that at least \$60,000 annually, beginning in 2008-09, of WFLGP funding, be allocated for grant projects by CWMA groups. By setting aside funding for grants to CWMA groups, the Department would be able to ensure that a certain level of WFLGP grants would go to these groups, rather than to individual landowners. However, individual landowners would still be eligible for grants for invasive species control efforts under the remaining WFLGP allocations (up to \$1,650,000 annually). If federal funding for this purpose were to become available it could be used to fund additional invasive control projects by both groups and individuals under the WFLGP program.

7. Another alternative could be to create a biennial appropriation within the forestry account to which the \$60,000 would be deposited, to be used specifically for invasive control grants to Cooperative Weed Management Area (CWMA) groups (as identified by DNR rule) for projects identified by the local groups and approved by the Department. However, this alternative would

limit these grants to the \$60,000 SEG appropriation (plus any federal funding).

8. The Emerald Ash Borer (EAB) is an exotic insect, native to Asia, which is threatening the ash resource in the Great Lakes region. The EAB was detected in the Upper Peninsula of Michigan in 2005 and in Illinois in 2006, approximately 40 miles south of the Wisconsin border. Wisconsin has 717 million forest-grown ash trees, and approximately one-third of urban street trees are ash. The presence of EAB has not yet been detected in Wisconsin. Since 2004, DNR and DATCP have engaged in activities aimed at detecting the presence of EAB in the state. DNR activities include: (a) visual surveys throughout state parks and forests as well as private campgrounds to collect baseline data on the current health status of the ash resource in Wisconsin and to detect EAB infestations in Wisconsin; and (b) creating detection (stressed) trees to attract EABs along the Lower Wisconsin Riverway and in 25 state park properties considered to be at the highest risk for the introduction of EAB. State parks and forests were primarily targeted due to the potential transmittal of EAB through firewood transported from infected areas.

9. The Department believes that early detection and thorough monitoring of EAB is critical to conducting forest management practices that will minimize the impact of the insect on Wisconsin's ash resources. The bill would provide funding of \$50,000 annually for supplies and services to detect and monitor the EAB and to produce maps of the ash resource in Wisconsin through a cooperative project between DNR and the University of Wisconsin. The project, which is based on a similar North Carolina program, would include a ground plot data collection effort and a remote sensing effort (using satellite imagery) to locate ash trees throughout the state. In addition, DNR has reallocated \$150,000 and a three-quarter time position from gypsy moth control to EAB efforts beginning in 2006-07.

ALTERNATIVES TO BILL

A. Invasive Plant Management Grants

1. Adopt the Governor's recommendation to provide \$60,000 beginning in 2008-09 under the Wisconsin Forest Landowner Grant Program (WFLGP) for a cost-share program to provide landowner grants to control invasive plants.

ALT A1	Change to Bill Funding	Change to Base Funding
SEG	\$0	\$60,000

2. Adopt the Governor's recommendation, as modified to specify that at least \$60,000 annually beginning in 2008-09 be allocated under WFLGP to groups of interested parties for invasive plant projects in weed management areas (as defined by DNR rule). The groups would consist of landowners who each own less than 500 acres of nonindustrial forest.

ALT A2	Change to Bill Funding	Change to Base Funding
SEG	\$0	\$60,000

3. Adopt the Governor's recommendation. However, create a new biennial appropriation from which the \$60,000 forestry SEG in 2008-09 would be provided for grants to CWMA's for invasive plant control projects (as defined by DNR rule).

ALT A3	Change to Bill Funding	Change to Base Funding
SEG	\$0	\$60,000

4. Delete provision.

ALT A4	Change to Bill Funding	Change to Base Funding
SEG	-\$60,000	\$0

B. Emerald Ash Borer

1. Adopt the Governor's recommendation to provide \$50,000 annually from the forestry account of the conservation fund for increased efforts to detect and monitor the emerald ash borer.

ALT B1	Change to Bill Funding	Change to Base Funding
SEG	\$0	\$100,000

2. Delete provision.

ALT B2	Change to Bill Funding	Change to Base Funding
SEG	-\$100,000	\$0

Prepared by: Erin Rushmer

SECTION 699c. 26.38 (title) of the statutes is amended to read:

26.38 (title) ~~Private forest grants~~ Forest grant program.

SECTION 699g. 26.38 (2m) (a) of the statutes is amended to read:

26.38 (2m) (a) The department shall establish a program to award grants for developing and implementing forest stewardship management plans by owners of non-industrial private forest land and to award grants to groups of interested parties for projects to control invasive plants in weed management areas. The department shall award the grants only to persons owning 500 acres or less of nonindustrial private forest land in this state or to groups in which each person participating owns 500 acres or less of nonindustrial private forest land in this state.

SECTION 699m. 26.38 (2m) (am) of the statutes is created to read:

26.38 (2m) (am) Beginning with fiscal year 2008–09, from the appropriation under s. 20.370 (5) (av), the department shall allocate for each fiscal year at least \$60,000 for grants for projects to control invasive plants in weed management areas. From the amount allocated, the department shall award grants to all eligible applicants for grants for such projects before awarding any balance of the allocated amount for grants for stewardship management plans.

SECTION 699r. 26.38 (2m) (b) of the statutes is amended to read:

26.38 (2m) (b) Each ~~owner-receiving~~ recipient of a grant under this section shall provide a matching contribution in an amount to be determined by the department for that particular grant based on criteria promulgated by rule under sub. (3). The matching contribution may be in the form of money or in-kind goods or services or both.

SECTION 699v. 26.38 (3) of the statutes is renumbered 26.38 (3) (intro.) and amended to read:

26.38 (3) (intro.) The department shall promulgate rules to implement and administer this program, including the all of the following:

(a) The criteria for determining the amount of a matching contribution under sub. (2m) (b) and the

(b) The minimum standards required under sub. (2m) (c).

SECTION 699x. 26.38 (3) (c) of the statutes is created to read:

26.38 (3) (c) Eligibility requirements for groups receiving grants for weed management areas, requirements for the grants, and requirements for establishing weed management areas.

SECTION 700. 26.385 of the statutes is repealed.

SECTION 700e. 27.01 (7) (c) 10. of the statutes is amended to read:

27.01 (7) (c) 10. Any motor vehicle operated for the purpose of transporting pupils to or from curricular or extracurricular activities of a public or private school or home-based private educational program under s. 118.15 (4) or for the purpose of transporting students to or from an outdoor academic class given by an accredited college or university in this state. The operator of a motor vehicle transporting pupils or students under this subdivision shall possess and exhibit for inspection a written authorization from an administrator of the school or home-based private educational program, or college or university indicating that admission to the vehicle admission area is part of an official school or home-based private educational program, or college or university function and indicating the date for which the authorization is applicable. A separate authorization is required for each date on which the motor vehicle is admitted to the vehicle admission area under this subdivision.

SECTION 701. 28.05 (3) (c) of the statutes is created to read:

28.05 (3) (c) Of the amount received by the department from each timber sale for which the department used the services of a cooperating forester under this subsection, the department shall credit to the appropriation account under s. 20.370 (1) (cy) an amount equal to the portion of the sale proceeds that the department is required to pay to the cooperating forester.

SECTION 702. 28.085 of the statutes is amended to read:

28.085 Timber. The department shall allocate for private forest grants under s. 26.38, ~~for forestry research and development grants under s. 26.385,~~ for the forestry education grant program under s. 26.40, for school forest transportation funding under s. 26.39 (5), for transfer to the appropriation under s. 20.292 (1) (km) for master logger apprenticeship grants under s. 38.04 (29), or for forestry internships under s. 26.39.

SECTION 702d. 28.11 (5m) (title) of the statutes is amended to read:

28.11 (5m) (title) ~~GRANTS FOR COUNTY~~ COUNTY FOR-EST ADMINISTRATORS ADMINISTRATION GRANTS.

SECTION 702e. 28.11 (5m) (am) of the statutes is created to read:

28.11 (5m) (am) The department may make grants, from the appropriation under s. 20.370 (5) (bw), to counties having lands entered under sub. (4) to fund up to 50 percent of the costs of a county's annual dues to a non-profit organization that provides leadership and counsel to that county's forest administrator and that functions as an organizational liaison to the department. The total amount that the department may award in grants under this paragraph in any fiscal year may not exceed \$50,000.

SECTION 703. 29.024 (2g) (am) of the statutes is amended to read:

levy under this section shall remain a charge against the county and the secretary of state shall include such unpaid sums in the state tax levy of the respective counties in subsequent years.

2. When such work has been performed on other public or private lands the department shall certify to such owner the claim of the state in writing and list the items of expense incurred in such pest control work. Such claims shall be paid within 60 days and, if not paid within such time, the state may begin an action thereon at any time within 2 years.

3. If any claim is not paid within 60 days, the state may file a mechanics' lien within 6 months after the 60-day period expires against the land affected in accordance with ch. 779, and shall have the necessary remedies to enforce the lien.

(10) **DISSOLUTION OF INFESTATION CONTROL ZONES.** Whenever the department finds that forest pest control within an established zone of infestation is no longer necessary or feasible it shall set aside the order establishing the zone.

History: 1977 c. 29 s. 1650m (1); 1979 c. 32 s. 92 (9); 1979 c. 110 s. 60 (11); 1983 a. 189; 1985 a. 13; 1991 a. 316; 2003 a. 33, 57.

Cross-reference: See also s. NR 47.910, Wis. adm. code.

26.35 Forest productivity. The department shall identify types of privately owned forest lands which are most likely to provide high forest productivity benefits to the economy of the state. The department shall target its activities in providing assistance to owners of privately owned forest lands in order to concentrate on those types of forest lands identified as most likely to provide high forest productivity benefits to the economy of the state.

History: 1983 a. 27.

26.36 Forest energy resources. Biennially, in consultation with the department of agriculture, trade and consumer protection and any other appropriate agency, the department shall prepare a report regarding the extent of forest lands in this state and the potential of such lands to provide fuel for use in electric generating facilities, industrial facilities and home heating systems. The report shall evaluate progress made in meeting the afforestation goal under s. 1.12 (3) (c). The department shall submit the report before April 1 of each even-numbered year to the legislature under s. 13.172 (3).

History: 1993 a. 414.

NOTE: 1993 Wis. Act 414, which creates this section, contains extensive explanatory notes.

26.37 Lake states wood utilization consortium.

(1) The department of natural resources shall develop a plan to establish a lake states wood utilization consortium to provide research, development, and demonstration grants to enhance the forest products industry in Wisconsin and other states. The plan shall do all of the following:

(a) Define the powers, duties and responsibilities of the consortium.

(b) Establish an implementation committee for the consortium. Members of the committee may include one or more representatives from the department of natural resources, the Wisconsin Economic Development Corporation, and the forest products industry.

(c) Specify eligibility requirements for the grants and criteria for awarding the grants, including how the grants are to be distributed to each state participating in the consortium.

(d) Require that the grants require matching funds or in-kind contributions by industrial recipients of the grants.

(e) Require the implementation committee to identify an organization that can administer and award the grants and oversee the grant program.

(f) Require the consortium to actively pursue funding from the states of Michigan and Minnesota of \$200,000 annually from each state for 3 years.

(g) Require the consortium to actively pursue federal and other funding sources.

(2) The department of natural resources may not expend moneys from the appropriations under s. 20.370 (5) (ax) or (6) (bt), 1997 stats., unless the department of natural resources and the Wisconsin Economic Development Corporation first submit to the joint committee on finance the plan required under sub. (1). If the cochairpersons of the joint committee on finance do not notify the department of natural resources within 14 working days after the date of the submittal of the plan that the committee has scheduled a meeting to review the plan, the plan may be implemented and moneys may be expended as proposed by the department of natural resources. If, within 14 days after the date of the submittal of the plan, the cochairpersons of the committee notify the department of natural resources that the committee has scheduled a meeting to review the plan, moneys may be expended only after the plan has been approved by the committee.

History: 1995 a. 27 ss. 1430m, 9116 (5); 1999 a. 185; 2011 a. 32.

26.38 Forest grant program. (1) In this section:

(a) "Community" has the meaning given in s. 28.04 (1) (b).

(ag) "Forest stewardship management plan" means a plan describing forest stewardship measures to be used on a particular site to achieve multiple natural resource goals.

(ar) "Nonindustrial private forest land" means rural land that has existing tree cover or that is suitable for growing trees.

(b) "Sustainable forestry" has the meaning given in s. 28.04 (1) (e).

(2m) (a) The department shall establish a program to award grants for developing and implementing forest stewardship management plans by owners of nonindustrial private forest land and to award grants to groups of interested parties for projects to control invasive plants in weed management areas. The department shall award the grants only to persons owning 500 acres or less of nonindustrial private forest land in this state or to groups in which each person participating owns 500 acres or less of nonindustrial private forest land in this state.

(am) Beginning with fiscal year 2008–09, from the appropriation under s. 20.370 (5) (av), the department shall allocate for each fiscal year at least \$60,000 for grants for projects to control invasive plants in weed management areas. From the amount allocated, the department shall award grants to all eligible applicants for grants for such projects before awarding any balance of the allocated amount for grants for stewardship management plans.

(b) Each recipient of a grant under this section shall provide a matching contribution in an amount to be determined by the department for that particular grant based on criteria promulgated by rule under sub. (3). The matching contribution may be in the form of money or in-kind goods or services or both.

(c) A forest stewardship management plan developed or implemented with a grant under this section shall meet minimum standards that are promulgated by rule under sub. (3) and shall contain practices that protect and enhance all of the following:

1. Soil and water quality.

2. Endangered, threatened or rare forest communities.

3m. Sustainable forestry.

4. Habitat for fish and wildlife.

5. The recreational, aesthetic and environmental benefits that the forest land provides.

(3) The department shall promulgate rules to implement and administer this program, including all of the following:

(a) The criteria for determining the amount of a matching contribution under sub. (2m) (b).

(b) The minimum standards required under sub. (2m) (c).

(c) Eligibility requirements for groups receiving grants for weed management areas, requirements for the grants, and requirements for establishing weed management areas.

History: 1997 a. 27; 2007 a. 20.

Cross-reference: See also ch. NR 47, Wis. adm. code.

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

The Wisconsin Natural Resources Board proposes an order to repeal NR 47.84 (2) (b) 8. and NR 47.87 (6); to amend NR 47.80, NR 47.82 (4), NR 47.83, NR 47.84 (1) (c), NR 47.86 (1) (a), NR 47.86 (3) (a), NR 47.86 (3) (e) 8., NR 47.87 (1) and (3), and NR 47.895 (2) and (3); to repeal and recreate NR 47.84 (2) (b) 4. to 7. and NR 47.86 (3) (c); and to create NR 47.82 (2m), and NR 47.84 (1m) relating to the administration of the Wisconsin Forest Landowner Grant Program and to create NR 47 subchapter XIII relating to the administration of the Weed Management Area Private Forest Grant Program.

FR-19-11

Analysis Prepared by the Department of Natural Resources

1. Statutes interpreted: Section 26.38, Stats.

2. Statutory authority: Sections 26.38 and 227.11 (2) (a), Stats.

3. Explanation of agency authority:

Section 26.38, Stats. directs the department to establish a program to award grants for developing and implementing forest stewardship management plans by owners of nonindustrial private forest (NIPF) land (WFLGP) and to award grants to groups of interested parties for projects to control invasive plants on NIPF lands in weed management areas (WMA-PFGP). More specifically, s. 26.38 (3), Stats., provides authority to promulgate rules to implement and administer WFLGP and WMA-PFGP. The department has general authority to promulgate rules under s. 227.11 (2) (a), Stats., that interprets the specific statutory authority granted in s. 26.38 (3), Stats.

4. Related statutes or rules: Section 23.2355, Weed Management Grants was created to disperse federal dollars that are no longer available. Under subch. III NR 47, Admin. Code, , the Stewardship Incentives Program was created to disperse federal dollars that are no longer available.

5. Plain language analysis: The proposed rules address 1) revision to the current Wisconsin Forest Landowner Grant Program (WFLGP) for NIPF landowners in subch. VII NR 47 Admin. Code and 2) the establishment of WMA-PFGP in subch. XIII NR 47, Admin. Code.

Revisions of NR 47 are proposed to implement changes to the Wisconsin Forest Landowner Grant Program (WFLGP) for NIPF lands and to create WMA-PFGP to award weed management groups interested in controlling invasive plants on NIPF lands.

A review of the 12 year old WFLGP was completed by the Division of Forestry's Private Land Management Specialist Team to identify ways to streamline administration, more efficiently use the dollars available and to continue to address landowner and forest resource needs. The team includes internal forestry and wildlife staff, and external landowner, consulting forester and educator representatives.

Creation of subch. XIII NR 47, Admin. Code will enable the department to award funds to control invasive plants on NIPF lands in WMA-PFGPs, by defining application requirements, eligible practices and costs, and rules for administration.

Proposed revisions of subch. VII NR 47 Forest Landowner Grant Program

These recommendations were developed through a review of the existing program and are recommended to provide greater flexibility in meeting landowner and program goals, more

efficient use of funding, and to address current and future resource needs identified in the Statewide Forest Strategy.

- **Modify rule to allow the department to annually set funding levels and priorities.** Currently funding levels for practices are set in rule. This change would allow the department to be more responsive to changing forest resources concerns, address statewide forest strategies and respond to private forest landowner needs.
- **Modify application deadlines from four to two and allow for additional dates to be established on the application.** This will allow the department to be more responsive to landowner needs as the deadlines for other related programs change (e.g., MFL application deadline).
- **Modify rule to limit matching grants to not more than 75% of actual costs.** Currently matching grants cannot be less than 50% nor more than 65%. Providing for up to 75% will allow for focusing funding on higher priority resource and landowner needs (e.g., recovery after a catastrophic event).
- **Modify grant period from 18 to 24 months.** The grant period is being expanded to respond to landowner needs to implement the practices and to decrease the dollars that may otherwise be returned when a practice is not fully implemented.
- **Create a waiting period (24 months) for individuals who fail to use any portion of the funds awarded before the grant expires.** Since this grant program is not a continuing appropriation any grants awarded in a biennium and not used cannot be given out again. This revision would encourage landowners who are awarded a grant to complete the practice or return the money earlier so it can be awarded to another landowner. This would not be applied when circumstances are beyond the landowners control.
- **Update practice descriptions to reflect changes in practice components and purposes.**
- **Modify language to allow for the use of nonprofit organization funding similar to federal funding currently provided for in the rule.**

Creation of subch. XIII NR 47 Weed Management Area Private Forest Grant Program

- **Define eligible and ineligible applicants.** Weed management groups (WMG), non-profit organizations, government entities may be applicants as long as funds are being used on NIPF land. A WMG consists of 3 or more persons of which at least one must be a person participating.
- **Define eligible practices.** Education and outreach if it pertains to invasive plants; inventory, control, and monitoring of invasive plants; development of long-term management plans; and establishing a WMG are all eligible practices under this grant program.
- **Define eligible costs and ineligible costs.** Eligible costs are those identified in the application and are associated with implementing eligible practices. Ineligible costs are those incurred before grant is awarded; practices that have not been approved by the department; costs to repair damages caused by implementing a practice, work on industrial forests; work on public land and travel to and from sites.
- **Create grant criteria.** The department will review applications to determine if the practice is needed and feasible, that there is evidence of at least one participation agreement at the time of application, and that there is a person participating who owns 500 acres or less of NIPF land.
- **Create grant selection criteria.** Preference will be given to projects which accomplish one or more of the following criteria: work on prohibited invasive plants, work on early detection species, protect sustainability of forest lands, applicants have a long-term management plan, work on forested land that is not heavily infested with invasive plants, or forest land where invasive plant species may be contained or eradicated.
- **Define rapid response practices.** These practices aid the department in allowing for control of prohibited or early detection invasive plant populations. Grant applications for rapid response practices are accepted at any time of year to offer more flexibility with prohibited or early detection invasive plant control. The department may cover up to 100% of the eligible costs for rapid response practices.

- **Create requirements for payment, reconsideration, and enforcement.** Reports detailing work completed are due before payment will be awarded. If grant extensions are needed due to conditions beyond the applicant's control, the department can award up to a one year extension. If funds are used for ineligible practices or costs, reimbursement may be withheld.
- **Allow** for other state, federal, or non-profit organization funds to be distributed through this program.

6. Summary and comparison with existing and proposed federal regulations. There are no known federal regulations that apply to the Wisconsin Forest Landowner Grant Program or the Weed Management Area Private Forest Grant Program. Federal funds distributed through subch. VII and subch. XIII are subject to the rules of the specific program.

7. Comparison of similar rules in adjacent states:

There are no known programs in adjacent states regarding cost-sharing grants for invasive plant control. Michigan, Minnesota, Illinois, and Iowa primarily use federal cost-sharing programs for development and implementation of forest stewardship plans on NIPF lands. Programs include USDA-Natural Resource Conservation Service (NRCS): Environmental Quality Incentives Program (EQIP) and Conservation Stewardship Program (CSP); and USDA-Farm Service Agency (FSA), Conservation Reserve Program (CRP). Illinois is the only one with a state funded cost-sharing program for NIPF. This program covers practices similar to WFLGP and is funded from a timber harvest fee.

8. Summary of factual data and analytical methodologies:

The Department of Natural Resources Private Land Management Team completed a program review of WFLGP policies and procedures which was referenced during the rule revision.

9. Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis:

The total amount of funding from the WFLGP appropriation under s. 20.370 (5) (av), Wis Stats. is not changing from the past amounts; therefore the overall secondary effect on small businesses will be the same as it has been in the past. The only change is to shift \$60,000 of the WFLGP funds to be awarded through WMA-PFGP total \$60,000.00; this shift in funds will have a positive secondary impact on small businesses that provide services or equipment for controlling terrestrial invasive plants.

10. Effect on small business:

This rule positively affects small business as a secondary benefit, specifically contractors (restoration consultants, cooperating foresters, loggers) and retailers who provide services or equipment for controlling terrestrial invasive plants or forest stewardship plan development and implementation.

11. A copy of any comments and opinion prepared by the Board of Veterans Affairs under s. 45.03 (2m), Stats., for rules proposed by the Department of Veterans Affairs:

Not applicable.

12. Agency Contact Person:

Carol K. Nielsen, Private Lands Forestry Specialist
 Ph: (608) 267-7508
 E-mail: carol.nielsen@wisconsin.gov

Thomas Boos II, Forestry Invasive Plants Coordinator
 Ph: (608) 266-9276
 E-mail: Thomas.boos@wisconsin.gov

13. Place where comments are to be submitted and deadline for submission.

Bureau of Forest Management
Wisconsin Department of Natural Resources
PO Box 7921
Madison, WI 53707-7921

Deadline for submittal of comments: 10 days following final public hearing.

Section 1. NR 47.80 is amended to read:

NR 47.80 Purpose and scope. The purpose of this subchapter is to establish procedures and standards for the administration of the private forest landowner grant program as authorized under s. 26.38, Stats., and to distribute other available state, and federal, and nonprofit organization funds for the purpose of encouraging private forest landowners to manage their lands in a manner that benefits the state's forest and related resources and the people of the state.

Section 2. NR 47.82 (2m) is created to read:

NR 47.82 (2m) "Nonprofit organization" means an organization described in section 501 (c) (3) to (7) of the Internal Revenue Code and is exempt from federal income tax under section 501 (a) of the Internal Revenue Code.

Section 3. NR 47.82 (4) is amended to read:

NR 47.82 (4) "Program" means the private forest landowner grant program established by the act authorized under s. 26.38, Stats.

Section 4. NR 47.83 is amended to read:

NR 47.83 Program administration. The department shall administer the program, within the guidance provided by the authorizing statute. Additional guidance may accompany federal funding, nonprofit organization funding and state funding other than that provided through s. 20.370 (5) (av), Stats.

Section 5. NR 47.84 (1) (c) is amended to read:

NR 47.84 (1) (c) Eligibility for federal funding or nonprofit organization funding may be defined in the grant agreement through which federal the funding is provided. Further, additional eligibility criteria may accompany state funding other than that provided through s. 20.370 (5) (av), Stats

Section 6. NR 47.84 (1m) is created to read:

NR 47.84 (1m) INELIGIBLE APPLICANTS. (a) An owner that did not receive any payment under 47.87 for a grant awarded under this subchapter which ended within the 24 months prior to the date the application was submitted. Unless the owner ended that grant within 12 months of the award.

(b) An owner who has violated s. NR 47.89 (1) or (2).

Section 7. NR 47.84 (2) (b) 4. to 7. are repealed and recreated to read:

NR 47.84 (2) (b) 4. Wetland and riparian protection and improvement which includes the management, protection, and improvement of wetlands and riparian areas to maintain water quality, protect and improve wetlands and riparian areas, reduce sedimentation and enhance or improve habitat for fish or wildlife species.

5. Terrestrial wildlife and habitat enhancement which includes the establishment, management and enhancement of permanent habitat for game and non-game wildlife species.

6. Forest historic cultural and archeological site protection.

7. Endangered, threatened or rare natural resource protection, management, restoration

and enhancement targeted at threatened or endangered species habitat maintenance or enhancement, and management of significant natural communities or rare native vegetation.
Section 8. NR 47.84 (2) (b) 8. is repealed.

Section 9. NR 47.86 (1) (a) is amended to read:

NR 47.86 (1) (a) A matching grant provided through s. 20.370 (5) (av), Stats., or other state funds shall ~~not be not less than 50% nor~~ more than ~~65%~~ 75% of the actual eligible costs depending on availability of funds. If a federal or nonprofit organization grant agreement provides for cost-share limitations different from those specified in this subsection, the cost-share rate from funds provided through the federal or nonprofit organization grant agreement may apply.

Section 10. NR 47.86 (3) (a) is amended to read:

NR 47.86 (3) (a) Application deadlines are as follows unless otherwise provided on the application, and are contingent upon availability of funds: ~~February 1, May 1, and August 1 and November 1.~~ State funds for this program other than those provided through s. 20.370 (5) (av), Stats., and federal funds awarded pursuant to a federal grant agreement and nonprofit organization funds awarded pursuant to a nonprofit organization grant agreement

Section 11. NR 47.86 (3) (c) is repealed and recreated to read:

NR 47.86 (3) (c) 1. Annually, the department may designate a percentage of the total annual funds for:

- a. A statewide forestry emergency, as designated by the state forester. A statewide forestry emergency includes, but is limited to natural and man-made events which cause large areas of forest mortality due to wind, ice, hail, flooding, forest fires, forest insect or disease.
 - b. Practices that accomplish objectives or groups of objectives identified under sub(2)(a).
2. If funds are available following distribution under subd. 1. a. and b., they may be distributed on a first-come-first-serve basis to any approved applications awaiting funding.

Section 12. NR 47.86 (3) (e) 8. is amended to read:

NR 47.86 (3) (e) 8. Within 8 weeks of the end of the batching period, the department shall notify the landowner ~~in writing~~ as to the status of his or her application.

Section 13. NR 47.87 (1) and (3) are amended to read:

NR 47.87 (1) A landowner shall complete each practice within ~~48~~ 24 months of approval. However, if a practice is not completed in ~~24~~ 48 months due to conditions beyond the landowner's control, the department may grant an extension ~~a 6-month extension period may be granted by the department.~~

(3) A practice may consist of one or more component activities. A landowner may receive partial payment for completed components, with approval of the department forester, on the condition that the landowner agrees to complete the remaining components of the practice within the time period specified by the department, not to exceed ~~48~~ 24 months following approval to implement the practice, unless an extension is justified as provided in sub. (1).

Section 14. NR 47.87 (6) is repealed.

Section 15. NR 47.895 (2) and (3) are amended to read:

NR 47.895 (2) Other state, ~~or federal~~ or nonprofit organization funds appropriated for the purpose of encouraging private forest landowners to manage lands in a manner that benefits this state's forest and related resources and the people of the state, provided the practice or practices identified for the funding are consistent with any identified in this subchapter as eligible for funding

(3) Other state, ~~or federal~~ or nonprofit organization funds distributed through this subchapter shall be distributed to practices or projects consistent with the appropriation.

Section 16. Subchapter XIII is created to read:

NR 47 Subchapter XIII - Weed Management Area Private Forest Grant Program

NR 47.960 Purpose and scope. The purpose of this subchapter is to establish procedures and standards for the administration of the private forest landowner grant program for weed management areas as authorized under s. 26.38 (2m) (a), Stats., and to distribute other available state and federal funds through grants for the purpose of encouraging private forest landowners and weed management groups to control invasive plant species on non-industrial private forest land in weed management areas in a manner that benefits the state's forest and related resources and the people of the state.

NR 47.961 Applicability. This subchapter is applicable to Weed Management Groups applying for or receiving grants under this subchapter.

NR 47.962 Definitions. In addition to definitions in s. NR 47.002, the following definitions apply to this subchapter:

- (1) "Invasive plant species" means a plant that is an invasive species.
- (2) "Invasive species" has the meaning given in s. NR 40.02 (24).
- (3) "Inventory" includes surveying and mapping for invasive plant occurrences.
- (4) "Long term management plan" includes a written prioritization plan for management of invasive plants within a WMA.
- (5) "Monitor" or "monitoring" includes post-activity documentation of management activity results (sampling and photo documentation).
- (6) "Non-profit organizations" has the meaning given in s. NR 47.82 (2m).
- (7) "Person" has the meaning in s. 990.01 (26), Stats.
- (8) "Person participating" means a person who owns 500 acres or less of non-industrial private forest land in the state on which a practice or portion of a practice under the grant will be implemented.
- (9) "Plant" has the meaning in s. NR 40.02 (38).
- (10) "Practice" means an activity or conservation measure intended to control invasive plant species..
- (11) "Program" means the weed management area private forest grant program authorized under s. 26.38, Stats.
- (12) "Prohibited invasive plant species" means a plant that is a prohibited invasive species.
- (13) "Prohibited invasive species" or "prohibited species" has the meaning given in s. NR 40.02 (41).
- (14) "Rapid response practice" means a practice to control or eradicate prohibited invasive plants and those invasive plants new to the state or to a region of the state as determined by the Chief State Forester.
- (15) "Reforestation" has the meaning given in s. NR 47.82 (5).
- (16) "Weed Management Area" or "WMA" means a geographic unit defined by a weed management group.
- (17) "Weed Management Group" or "WMG" includes persons that are concerned about invasive plants within a WMA, whether they are a person participating or not.

NR 47.963 Program Administration. The department shall administer the program, within the guidance provided by the authorizing statute. Additional guidance may accompany federal funding, non-profit organization funding, and state funding other than that provided through s. 20.370 (5) (av), Stats.

NR 47.964 Eligibility. (1) ELIGIBLE APPLICANTS. (a) All nonindustrial private forest lands that meet the program requirements as herein stated are eligible for assistance under the program.

(b) A WMG consisting of 3 or more persons of which at least one must be a person participating.

(c) Eligibility for federal funding, or non-profit organization funding, may be defined in the

grant agreement through which the funding is provided. Further, additional eligibility criteria may accompany state funding other than that provided through s. 20.370 (5) (av), Stats.

(d) Non-profit organizations and government entities may be applicants as long as the funding is used on non-industrial private forested land.

(2) INELIGIBLE APPLICANTS. (a) An applicant that did not receive payment under s. NR 47.967 for a grant awarded under this subchapter which ended within the 24 months prior to the date the application was submitted. Unless the owner ended that grant within 12 months of the award.

(b) An applicant who has violated sub.(1) .

(3) ELIGIBLE PRACTICES. (a) *Practices.* The following practices are eligible for grants under this subchapter. However, additional eligible practices may accompany funding for this program other than that provided through s. 20.370 (5) (av), Stats.

1. Education, information and outreach including publications, field days, websites, demonstrations, trainings, and planning workshops.

2. Coordinating a WMG, which includes one time start up costs, a WMG coordinator salary for up to one grant cycle, assisting a WMG in the formation of partnerships, goals, and objectives for the management of the WMA.

3. Inventory of invasive plant species occurrences.

4. Control of invasive plant species that impact non-industrial private forest land.

5. Monitoring.

6. Practices under s. NR 47.84(2)(b) if they pertain to invasive plant management.

7. Long term management plan development

NR 47.965 Costs. (1) ELIGIBLE COSTS. (a) Grants under the program shall be used to distribute available state, federal or nonprofit funds for the purpose of encouraging invasive plant management in weed management areas.

(b) Eligible costs are all those identified in an application under s. NR 47.966(3) and associated with the preparation or implementation of one or more eligible practices as approved by the state forester.

(2) INELIGIBLE COSTS. (a) No person may use grant funds under this subchapter for any of the following:

1. Costs incurred before an application for grant assistance is approved.

2. The implementation of any practice already required by law, rule, regulation or other authority, except for a practice required in the managed forest law program under ch. 77, Stats., and except for a practice required under ch. NR 40 for prohibited and restricted terrestrial plant species.

3. A Practice not approved by the department in writing, or changes to a previously approved practice, unless authorized by the department in writing.

4. Costs to repair damage caused by implementing a practice.

5. Costs associated with work on public lands.

6. Costs associated with work on industrial forests.

7. Costs in excess of \$5,000 for equipment purchase.

8. Costs associated with traveling to and from the site.

NR 47.966 Grants. (1) GRANT CALCULATION. (a) A matching grant provided through s. 20.370 (5) (av), Stats., or other state funds shall be no more than 75% of the actual eligible costs depending on the availability of funds, except under par (c). If a federal or nonprofit organization grant agreement provides for cost-share limitations different from those specified in this subsection, the cost-share rate from funds provided through the federal or nonprofit organization grant agreement may apply.

(b) A grant under the program may not exceed \$15,000.00 to any WMG excluding a rapid response practice.

(c) A grant or portion of a grant awarded for work on prohibited species or early detection

species may be up to 100% of the actual eligible costs depending on the availability of funds.

(2) GRANT SELECTION SYSTEM. (a) In selecting practices for grant assistance, the department shall give preference to projects which include the following, which are not listed in order of priority:

1. Work on the control of prohibited invasive plant species as identified in ch. NR 40.
2. Work on the control of invasive plant species.
3. Non-industrial private forest land not heavily infested with invasive plant species.
4. Non-industrial private forest land where invasive plant species identified in the application may be contained or eradicated.
5. Long term management plan use or development.
6. A WMA includes more than the land owned by one person participating.

(3) APPLICATION AND APPROVAL. (a) Application deadline is April 1 unless otherwise provided on the application form, and are contingent upon availability of funds. State funds for this program other than those provided through s. 20.370 (5) (av), Stats., federal funds awarded pursuant to a federal grant agreement and nonprofit funds awarded pursuant to a nonprofit organization grant agreement may specify other application deadlines. Applications for rapid response practices can be applied for at any time.

Note: Applications can be obtained from the department of natural resources Forestry Invasive Plant Coordinator, P.O. 7921, Madison, WI 53707-7921 and on line at <http://dnr.wi.gov/>

(b) The department shall make basic eligibility determinations upon receipt of an application, including whether the person participating meets nonindustrial private forest land ownership criteria and maximum acreage criteria. The department determines the amount awarded to each applicant.

(c) A WMG may only apply once per year, except that a WMG may apply any number of times per year for a rapid response practice.

(d) Annually, the department may designate a percentage of the total annual funds for:

1. Rapid response practices.
2. Practices that accomplish objectives or groups of objectives identified under sub(2)(a).

(e) The department shall review applications to determine practice eligibility, based on the following:

1. The practice is needed and feasible.
2. The practice is eligible under this subchapter.
3. The practice cost is determined to be at least \$200 or more.

(f) Applications will be approved provided grant funds are available. Department approval of an application shall constitute an agreement between the state and the WMG.

(g) Upon approval of a practice, the landowner shall be notified in writing by the department or its agent.

(h) Grant awards will be determined by department based on eligibility and availability of funds.

(i) The department shall determine award date upon approval.

NR 47.967 Payment. (1) A WMG shall complete each practice within the period specified by the department. The department shall specify a period of up to 24 months. However, if a practice is not completed in the specified time due to conditions beyond the control of the WMG, the department may grant an extension.

(2) Upon certification by the department that a practice has been completed in accordance with specifications, including timely submittal of reports required and determined by the department, the grant payment shall be calculated by the department and disbursed to the WMG by or at the direction of the department.

(3) A WMG may receive partial payment for an incomplete practice, with approval of the department forester, on the condition that the WMG agrees to complete the practice within the time period specified by the department, not to exceed the approved grant period, following

approval to implement the practice, unless an extension is justified as provided in sub. (1).

(4) Where completion of an approved practice does not meet the minimum specifications for the practice due to factors beyond the control of the WMG control, the department may approve grant payment under one of the following conditions:

(a) The WMG repeats a practice previously implemented or establishes an additional eligible practice under terms and conditions the department approves to the extent that needed to meet the objectives of the approved grant; or

(b) The WMG establishes to the satisfaction of the department that the following have been met:

1. A reasonable effort was made to meet the minimum requirements.

2. The practice, as performed, adequately meets the objectives of the approved grant.

(5) No grant payment obligated to any WMG shall be subject to any claim arising under state law by any creditor, except agencies of the state of Wisconsin.

(6) Start up costs as identified in 47.964 (3) (a) 2. and costs for practices to control prohibited invasive plant species other invasive plant species identified by the department may be awarded after grant approval.

(7) The WMG shall submit evidence of the participation agreement for each person participating, including expressed permission for WMG to enter upon land of person participating.

(8) Match may not be required for grants awarded for work on prohibited invasive plant species or other invasive plant species identified by the department.

NR 47.968 Reconsideration. A WMG who is dissatisfied with any determination made under the program may request reconsideration by the State Forester. All requests for reconsideration shall be in writing and shall contain factual information explaining the basis for requesting reconsideration. All decisions upon reconsideration shall be issued in writing.

NR 47.969 Enforcement. (1) If any WMG or assignee uses any scheme or device to unjustly benefit from this program, the cost-share grants shall be withheld or a refund of all or part of any program payments otherwise due or paid that person shall be secured. A scheme or device includes, but is not limited to, coercion, fraud or misrepresentation, false claims, or any business dissolution, reorganization, revival or other legal mechanism designed for or having the effect of evading the requirements of this subchapter.

(2) If any WMG takes any action or fails to take reasonable action as determined by the department which results in the failure, non-completion, destruction or impairment of a practice for the duration of the approved grant period, cost-share grants shall be withheld or a refund of all or part of any program payments otherwise due or paid shall be secured.

(3) Nothing in this subchapter requiring the withholding or refunding of cost-share grants shall preclude any other penalty or liability otherwise imposed by law.

(4) If the applicant has not utilized grant money appropriately as determined by the department, additional pending cost-share grants under this subchapter shall be withheld or a refund of all or part of any program payments otherwise due or paid shall be secured.

NR 47.970 Funding. Funding for grants under these rules includes:

(1) Funds appropriated for the grant program established under s. 26.38, Stats.

(2) Other state, federal, or non-profit organization funds available to the department for the purpose of encouraging WMGs to manage lands in a manner that benefits this state's forest and related resources and the people of the state, provided the practice or practices identified for the funding are consistent with practices identified in this subchapter as eligible for funding

Section 17. EFFECTIVE DATE. This rule 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

Section 18. BOARD ADPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on _____.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL
RESOURCES

By _____
Cathy Stepp, Secretary

(SEAL)