



Notice Soliciting Comments Regarding an Economic Impact Analysis for creating a rule NR 47.65 – County Forest Time Standards Grant, creating a new grant program that would allow County Forests flexibility in receiving additional financial assistance in lieu of technical assistance.

Notice Date: December 12, 2013

Comment Period: 14 days – Reply by January 3, 2014.

Dear County Forest Administrator;

The Department of Natural Resources is in the process of preparing an economic impact analysis (EIA) for a proposed new rule NR 47.65, Board Order FR-07-12, relating to a new grant program that would allow County Forests additional flexibility in selecting the suite of resources provided by the Department to assist counties. The proposed grant program would allow County Forests to receive grant funds to hire temporary staff or contractors to accomplish a desired amount of those sustainable forestry projects in lieu of receiving a corresponding amount of technical assistance from Department staff. The proposed grant program is structured to focus on accomplishing tasks already identified in the time standards agreement for each county, which guides what activities have typically been accomplished by Division of Forestry staff. I have attached a copy of the proposed new rule order and a preliminary draft of the EIA for this rule. These are also available for download as a clickable link by going to the following site:

<http://dnr.wi.gov> and searching for the keywords “Administrative Rules” or at <http://adminrules.wisconsin.gov>.

If you are not able to access or download the information, please send an email to the following address: Joseph.Schwantes@wisconsin.gov or call 608-264-9217.

Pursuant to s. 227.137, Wis. Stats., the department is required to solicit comments on the economic impact of proposed rule FR-07-12 and, if requested, to coordinate with local governments in the preparation of the EIA. Notice is hereby given that the Department of Natural Resources will accept written comments on the EIA until **January 3, 2014**. Comments may be submitted electronically to: scott.loomans@wisconsin.gov or may be mailed to: Joe Schwantes, Wisconsin Dept. of Natural Resources, P.O. Box 7921, Madison, WI 53707.

Any local governmental unit that is affected by the rule may also request to coordinate with the department on preparation of the EIA. If a local governmental unit wishes to coordinate with the department on preparation of the EIA, the governmental unit must notify the department of its request to coordinate at the time comments on the EIA are submitted. The department will then contact all local governmental units requesting an opportunity to coordinate and incorporate their comments into the EIA to the extent feasible.

Pursuant to Executive Order # 50 (2011) and s. 227.137, Wis. Stats., the department must include the information listed below in an EIA. To review all of the information that must be included in an EIA, you may refer to the Executive Order and statutory provisions. When submitting comments, please provide specific information in these areas and include any supporting economic data, studies or reports. Please do NOT submit comments on revisions to the rule language at this time. The department is soliciting information on the following from you and others:

Would you, your business, your association, or your local unit of government be affected in a material economic way (positively or negatively) by the implementation of these proposed County Forest time standard grant rules?

Comments may be submitted electronically to: scott.loomans@wisconsin.gov or may be mailed to: Joe Schwantes, Wisconsin Dept. of Natural Resources, P.O. Box 7921, Madison, WI 53707.

Additionally, the department is seeking comments on the following from people who indicate they will be affected economically:

1. Any implementation or compliance costs that are reasonably expected to be incurred.
2. Actual quantifiable benefits of the proposed rule.
3. Whether the proposed rule would adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of the state.
4. Economic impacts of specific alternatives to the proposed rule.
5. Whether the proposed rule will have an economic impact (savings or increased costs) on public utilities or their ratepayers.

If you are a small business as defined in s. 227.114(1), Wis. Stats., please identify yourself as a small business in your comments. Small business means a business entity, including its affiliates, which is independently owned and operated and not dominant in its field, and which employs 25 or fewer full-time employees or which has gross annual sales of less than \$5,000,000.

Please refer to s. 227.19(3)(e)3. and 4. for further information when you are preparing your comments as a small business. Following the public comment period for the EIA, a revised "Fiscal Analysis and Economic Impact Analysis" will be prepared containing relevant information that the department receives.

Once the EIA process is completed, the department will submit the rule package and economic impact analysis to the Wisconsin Legislative Council under s. 227.15, Wis. Stats., and hearings on the proposed rule will be held by the department after proper notice in accordance with ss. 227.17 and 227.18, Wis. Stats. If the EIA indicates that the proposed rule is reasonably expected to have a total impact of \$20,000,000 in implementation and compliance costs, the department shall submit the rule to the Department of Administration in accordance with s. 227.137(6), Wis. Stats.

NOTE: Chapter 227 of the statutes may be found at the following web site:
<https://docs.legis.wisconsin.gov/statutes/statutes/227.pdf>.

Further information on the process for enacting rules is contained in Executive Order #50 signed by Governor Walker on November 2, 2011 (available at http://docs.legis.wisconsin.gov/code/executive_orders/2011_scott_walker/2011-50).

Thank you for your consideration,

Joe Schwantes
County & Public Forest Specialist, Division of Forestry,
Wisconsin Department of Natural Resources
PO Box 7921
Madison, WI 53707-7921

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

DRAFT - NR47.75 (new) County Forest Time Standards Grant

3. Subject

County forest time standards grant. Grant that would allow additional flexibility for County Forests to select the optimal combination of resources provided to each by the Department.

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, State Appropriations Affected
20.370(5)(bw)

6. Fiscal Effect of Implementing the Rule

No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

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

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (If checked, complete Attachment A)

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

Yes No

9. Policy Problem Addressed by the Rule

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

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

County Forestry Administrators (29 individuals), which is the group that would be the most affected by this rule.

11. Identify the local governmental units that participated in the development of this EIA.

County Forestry Administrators (29 individuals), which is the group that would be the most affected by this rule.

12. 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)

Minimal impacts are expected. Depending on the level of grant funding utilized by County Forests under this grant program and whether grant funds are utilized to hire temporary employees or independent forestry contractors, there

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

could potentially be a small positive impact on the forestry consultant business sector.

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

This proposed rule would allow additional flexibility for County Forests to select the optimal combination of resources provided to each by the Department. Each County Forest would periodically be given the opportunity to request a modification of the allocation of resources provided by the Department among a suite of grants and the hours of technical assistance the DOF provides to best meet their individual needs. The shift to additional grant funds would allow them to hire contractors or seasonal staff to accomplish similar forestry work. The thought is that some of the forestry tasks may be done adequately using potentially lesser paid seasonal or contracted staff, with the end result being the ability to get more work done with the same amount of resources.

The alternative to implementing the rule would be to continue offering County Forests the current suite of technical assistance and grant funding that is provided, without offering additional flexibility to customize the resources provided.

14. Long Range Implications of Implementing the Rule

The long range fiscal implications of implementing the rule are minimal, as the rule would simply allow the same funding to be utilized for a wider range of grant programs and would not necessarily increase or decrease actual financial resources dedicated to the suite of grants for County Forests.

15. Compare With Approaches Being Used by Federal Government

Not applicable.

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

Not applicable. Neighboring states do not have similar county forest programs, which have the unique relationship between the state and county forest programs that exists in Wisconsin.

17. Contact Name

Joe Schwantes

18. Contact Phone Number

608-264-9217

This document can be made available in alternate formats to individuals with disabilities upon request.

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ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
 - Less Stringent Schedules or Deadlines for Compliance or Reporting
 - Consolidation or Simplification of Reporting Requirements
 - Establishment of performance standards in lieu of Design or Operational Standards
 - Exemption of Small Businesses from some or all requirements
 - Other, describe:
-

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes No
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**ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
CREATING RULES**

The statement of scope for this rule, FR-07-12, was approved by the Governor on March 14, 2012, published in Register No. 675, on March 31, 2012, and approved by the Natural Resources Board on April 25, 2012. This rule was approved by the Governor on _____.

The Wisconsin Natural Resources Board proposes an order to create a rule, NR 47.65, related to directing the distribution of grant funding for a county forest time standards grant.

FR-07-12

Analysis Prepared by the Department of Natural Resources

1. Statutes interpreted:

Section 28.11 (5r), Wis. Stats.

2. Statutory authority:

Section 28.11 (5r), Wis. Stats.

3. Explanation of agency authority:

DNR's responsibilities for oversight of the County Forest program can be found in s. 28.11(5) Wis. Stats. and the authority for sustainable forestry funding is included in 28.11(5r) Wis. Stats. S. 28.11(5r)(b) states: "The department may make grants, from the appropriation under s. 20.370(5)(bw), to counties having lands entered under sub.(4) to fund the cost of activities designed to improve sustainable forestry on the lands. Finally, Wis. Stat. s. 227.11 (2)(a) allows the DNR to promulgate rules for any statute if the DNR considers it necessary to effectuate the purpose of the statute. Without rulemaking authority for this rule, the DNR will not be able to administer or enforce the grant program authorized by statute, since the DNR would not be able to establish criteria that would uniformly apply across grant applicants without running afoul of the definition of "rule" found under Wis. Stat. s. 227.01(13).

4. Related statutes or rules:

Chapter NR 47.75 - Sustainable Forestry Grant For County Forests, establishes standards and procedures for implementation of a grant program to contribute funds to sustainable forestry practices on county forests under s. 28.11 (5r), Wis. Stats., specifically for projects that are suitable as a short term and unanticipated workload item consistent with a county's comprehensive county forest land use plan under s. 28.11 (5) (a), Wis. Stats.

5. Plain language analysis:

This proposed rule would create a new grant program, which would allow additional flexibility for County Forests to select the optimal combination of resources provided to each by the Department. Presently the DNR Division of Forestry (DOF) provides assistance to County Forests, aligning workload with the statutory role of the DNR in oversight of the County Forest program. An agreed upon number of hours are provided to each county based on the workload for that particular county. The DOF's Strategic Direction process in 2011-12 realigned forest resources to better accomplish the DOF's mission in Wisconsin's Statewide Forest Plan. As part of that process, each County Forest was given the opportunity to request a modification of the allocation of resources provided by the Department among a suite of grants and the hours of technical forestry assistance the DOF provides to best meet their individual needs. Several counties (Clark, Eau Claire, Iron, Jackson and Langlade) desire to reduce their assistance from DNR in exchange for funding that would allow them to hire contractors or seasonal staff to accomplish similar forestry work. The thought is that some of the forestry tasks may be done

adequately using potentially lesser paid seasonal or contracted staff, with the end result being the ability to get more work done with the same amount of resources. The proposed grant program is structured to focus on accomplishing tasks already identified in the time standards agreement for each county, which guides what activities have typically been accomplished by DOF staff. This funding would provide for on-the-ground sustainable forestry practices with the reallocation of funding into appropriation 20.370(5)(bw).

6. Summary and comparison with existing and proposed federal regulations.

This rule/grant does not impact and is not impacted by any federal regulations.

7. Comparison of similar rules in adjacent states:

This rule/grant is not similar to rules in any adjacent states. The County Forest Program, as established by s. 28.10 and s 28.11 Wis. Stats., is unique in the nation, in terms of the partnership and roles of the State and participating counties in the management of County Forest lands.

8. Summary of factual data and analytical methodologies:

This new rule/grant will be consistent with the goals established in the Division of Forestry's Strategic Direction conducted in 2011-12, which realigned forest resources to better accomplish the DOF's mission in Wisconsin's Statewide Forest Plan. The proposed rule/grant language was developed by a team that included several DOF staff members, the Executive Director of the Wisconsin County Forests Association, and three County Forest Administrators. The proposed language has been vetted and approved by the DOF's Leadership and Operations Team as well as the Wisconsin County Forests Association's Legislative & Certification Committee.

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

The Division of Forestry is directly contacting County Forest Administrators, who would be most directly affected group affected by this proposed rule/grant to solicit their input in the development of the Economic Impact Analysis (EIA). The County Forest Administrators are the individuals that would be responsible for completing and submitting grant applications under the proposed rule, and therefore are in the best position to describe the potential impacts of the rule on their budgets and the small businesses they may potentially hire to complete sustainable forestry projects.

10. Effect on small business:

This rule/grant would provide an option for counties to receive grant funding as an alternative to DNR staff assistance, which could be used to hire temporary staff or contractors to accomplish sustainable forestry projects. As such, there could potentially be a minor economic impact on small businesses, if counties received grant funding and subsequently hired contractors for that work. The actual overall economic impact to small businesses in Wisconsin will be minimal, although a few small businesses may see significant benefits if selected to do contract work on County Forest projects.

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 (include email and telephone number):

Joe Schwantes,
County & Public Forest Specialist
PO Box 7921

Madison, WI 53707-7921
Joseph.Schwantes@wisconsin.gov
(608) 264-9217

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

Joe Schwantes,
County & Public Forest Specialist
PO Box 7921
Madison, WI 53707-7921
Joseph.Schwantes@wisconsin.gov
(608) 264-9217

Deadline for submission is 4:00 PM on January 3rd, 2014.

Section 1. NR 47.65 is created to read:

NR 47.65 – County forest time standards grant program.

(1) **PURPOSE.** The purpose of this section is to establish standards and procedures for implementation of a grant program to contribute funds towards accomplishing sustainable forestry practices which have been identified through the county forest time standards calculation for county forests.

(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 an adjustment from the calculated level of technical forestry assistance provided by the department's division of forestry as established under the county forest time standards calculation.

(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) "Non-profit organization" means the same as non-profit corporation, as described in s. 181.0103 (17), Stats.

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

(g) "Technical forestry assistance" means department staff time provided to assist a county in accomplishing the activities described in the county forest time standards and consistent with a county's comprehensive county forest land use plan.

(4) ELIGIBLE PROJECTS. To be eligible for a time standards grant adjustment to technical forestry assistance:

(a) Projects shall promote sustainable forestry on the county forest. Projects may include any of the activities identified through the county forest time standards which are not solely the responsibility of department.

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

(c) 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. Purchase of equipment and supplies.
2. Permanent staff salary or benefits.
3. Upgrade or replacement of existing computer software and hardware.
4. Land surveying.

(6) APPLICATION PROCEDURE.

(a) Other than as provided in par. (e), a county may apply for a time standards 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 time standards grant.

2. The project description including an estimated cost breakdown and a short narrative describing the proposed work to be accomplished and how it directly relates to the calculated time standard activities, to be signed and approved by the county forest administrator.

3. The amount of grant funding requested to accomplish the proposed work and the corresponding reduction in technical forestry assistance as described in sub. (7) par. (e).

4. Other information the department feels necessary and requests within 30 days following receipt of the application.

(b) Grant applications shall be for a minimum of \$1,000.00 with a maximum not to exceed the equivalent of 25% of a county's calculated county forest time standard. 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 county policy is in opposition to the comprehensive county forest land use plan, under s. 28.11 (5), Stats.

2. Previous unexpended funds from this grant program are owed the department as described in sub. (8)(d).

3. A county fails to comply within 3 years to department forestry audit recommendations.

(d) Applications shall be for a four year period, set in conjunction with the state biennial budget covering a period of four state fiscal years (two state budgets).

(e) Grant applications shall be accepted during the period from October 1 to December 31 in every other odd numbered year. Grant awards for those applications shall be made no later than July 31 of the subsequent odd numbered year.

Note: For example, applications shall be accepted from October 1 – December 31, 2013 for funding during state fiscal years 2016-2019. Grant awards shall be made no later than July 31, 2015. Application years: 2013, 2017, 2021, 2025, 2029, etc.

(f) Funding amounts requested in grant applications shall be considered final once submitted.

(g) Applications may be submitted and grants awarded at other times if resources are available and circumstances are warranted, as determined by the department (e.g. department vacancies).

(7) GRANT AWARD PROCEDURE, FUNDING RATES AND CONSTRAINTS.

(a) Payment of all grants shall be made by September 30 of the first year of the biennium. The grant covers a four year period, consequently the grant amount requested shall be split equally between the two state budget bienniums. Funding in the second biennium is subject to inclusion of adequate funding in the state budget for that period.

(b) 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).

(c) The county shall submit information requested by and satisfactory to the department demonstrating project completion by January 31st following each biennium.

Note: For example, project accomplishment reports for the fiscal year 2016 & 2017 biennium are due by January 31, 2018. Accomplishment reporting years: 2018, 2020, 2022, etc. The mailing address is WI. DNR, Division of Forestry, P.O. Box 7921, Madison, WI 53707-7921 Attn: County Forest Specialist.

(d) Funding rates will be based on eligible applications received by the department and total available funding for each of the biennial budget periods.

1. Total eligible funding will be based upon an appropriation under Wis. Stats. s. 20.370 (5) (bw), while reserving an amount of funds agreed to biannually by the department and a nonprofit organization that provides leadership and counsel to county forest administrators and that functions as an organizational liaison to the department as identified in s. 28.11(5m)(am) Stats., to address projected sustainable forestry grant project needs s. 28.11 (5r) Stats. and funds to cover projected county forest administration grant needs s. 28.11 (5m) Stats., based on the previous year's eligible administration grant requests plus a projected five percent annual growth of administration grant requests.

2. If full funding is not available due to insufficient funds to provide grants applied for, the department shall offer the applicants the choice of receiving pro-rated funding for the project up to the amount of available funding described in par. (d)(1) or withdrawal of the application.

(e) The calculated rate for conversion of technical forestry assistance to time standards grant funding shall be calculated by adding the average department forester hourly cost (factored at 75% of the calculated average) and the average department forestry technician hourly cost (factored at 25% of the calculated average), based on actual salary, fringe, and supply rates for the fiscal year proceeding the application period.

(8) PROJECT COMPLETION ACCOUNTABILITY AND AUDIT PROCEDURES.

(a) Grant funds may be spent only on eligible activities as described in sub. (4).

(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) Any grant funds not spent on eligible costs by January 31st of the year in which reporting is required under sub. (7) par. (c) shall be returned to the department. Failure to return the funds shall render a county ineligible for any future grants under this section.

(e) A county may maintain funds contrary to par. (d) upon written approval from the department.

(f) Project scope may be amended over grant period as requested by the county forest administrator and contingent upon approval by the department.

Section 2. 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 3. BOARD ADOPTION. 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)

