

Clearinghouse Rule 06-022

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD CREATING RULES

The State of Wisconsin Natural Resources Board proposes an order to create NR 47.93 relating to the forestry research and development grant program.

FR-17-06

Analysis Prepared by Department of Natural Resources

Statutes interpreted: s. 26.385, Stats.

Statutory authority: s. 26.385, Stats. 2005 Wisconsin Act 25 created s. 26.385 that authorizes the Department of Natural Resources (DNR) to promulgate rules that establish criteria for a forestry research and development grants program. The program is proposed to be funded through a continuing appropriation, in FY'06 through the 13.10 emergency budget process.

Analysis of proposed rules: Rules will address the purpose, applicability, definitions, grant solicitation and public notice, contractor selection criteria and grant agreement provisions for the grants program. Grants will only be awarded as required match for funding provided by the federal government for forestry biomass research and development. It is the intent of the department to contract with a program administrator to solicit grant applications, provide expert review, and recommend grant awards to the department. DNR does not have staff that has the expertise needed to evaluate forestry biomass energy or biochemical research, development, or commercialization proposals.

Comparison with federal regulations: There are no known federal regulations that apply to the Forestry Research and Development Grants program.

Comparison with adjacent states: None of the adjacent states have implemented a similar program that targets the development of energy and biochemicals from forestry biomass sources.

Summary of the methodologies used in support of the proposed rule: 2005 Act 25, s. 26.385 Stats., authorized the development of the program and the Governor in his veto message directed the funding mechanism. The rule was drafted using the example of a similar DOA energy conservation and efficiency and renewable resource program, ch. Adm 44. The rule was also drafted to minimize DNR administrative costs, while still providing appropriate oversight of the forestry research and development grants program. DNR used correspondence from the Timber Producers Association and Lake States Lumber Association, and State Representative Don Friske's office in rule development.

Effect on small business: This rule may affect small business. The grants are available to organizations who are seeking required state matching funds for federal grants related to the research, development, or commercialization of technologies for the use of forestry biomass as an energy or biochemical source. The compliance and reporting on this program will be controlled primarily by the requirements of the federal grant that these moneys will be used to match. No additional reporting to the state is requested as the federal requirement will meet our needs for reporting.

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Comments: Written comments may be submitted until (one week after public hearing). Comments may be submitted to: Planning and Analysis Section, Bureau of Forestry Services, Attn.: Terry Mace FR/4,

SECTION 1. NR 47.93 is created to read:

Subchapter XI -- Forestry Research and Development Grant Program

NR 47.93 Forestry research and development grants. (1) **PURPOSE.** The purpose of this section is to establish requirements, applicability, criteria and procedures to be followed by a program administrator in soliciting and selecting applications for grant funding to be awarded by the department for forestry research and development grants. State grants can only be awarded as required match for federal grants related to the development of technologies for the use of forestry biomass as an energy or biochemical source.

(2) **APPLICABILITY.** This section is applicable to nonprofit organizations experienced in the commercialization of energy technologies who seek grants to match federal grants for any of the following:

- (a) Research and development of technologies for using forestry biomass as energy sources.
- (b) Encouraging the use of forestry biomass as energy sources.
- (c) Increasing the beneficial use of forestry biomass.
- (d) Encouraging the development of biochemicals from forestry biomass.

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

- (a) "Contractor" means a person who enters into a grant agreement with a program administrator.
- (b) "Department" means the department of natural resources.
- (c) "Division administrator" means the administrator of the division of forestry in the department of natural resources or a designee.
- (d) "Forestry biomass" means byproducts and waste generated by the practice of forestry on forestry lands.
- (e) "Forestry research and development grants program" means a program established in accordance with s. 26.385, Stats., and designated as such in a contract between the department and a program administrator.
- (f) "Grant" means a financial award by the department to a contractor selected by a program administrator for the purpose of implementing a forestry research and development grants program.
- (g) "Grant agreement" means a contract between a program administrator and a contractor containing the terms and conditions of a grant awarded under s. 26.385, Stats.
- (h) "Person" has the meaning set forth in s. 990.01 (26), Stats.
- (i) "Program administrator" means a non-stock, non-profit corporation organized under ch. 181, Stats., that contracts with the department to administer and select contractors for a forestry research and development grants program under s. 26.385, Stats., or a designee approved by the department.

(4) **GRANT SOLICITATION AND PUBLIC NOTICE.** (a) *Competitive solicitation.* A program administrator soliciting proposals for grants under s. 26.385, Stats., shall ensure that all solicitations are conducted in a manner that provides for fairness and competition whenever practicable.

(b) *Public notice.* 1. A program administrator shall provide reasonable public notice of all solicitations of grant proposals under s. 26.385, Stats. Notice may be made through the print, broadcast or telecommunications media, including the Internet, at the discretion of the program administrator. The notice period shall be as specified in the contract entered into between the department and the program administrator which shall be commensurate with the scope of the grant.

2. The notice shall include the purpose of the grant, the selection criteria, application procedures, and all applicable solicitation deadlines that an applicant is required to meet, or shall contain instructions for obtaining this information.

(c) *Application requirements.* All applications for a grant under s. 26.385, Stats., shall be submitted to the department or the program administrator as directed in the notice provided under this

section. All applications shall be fully completed, executed by an individual having authority to act for the applicant, and submitted by the required filing deadline.

(5) CONTRACTOR SELECTION CRITERIA. (a) Prior to the solicitation of a grant under s. 26.385, Stats., the program administrator shall submit to the department the selection criteria to be used to evaluate grant applications and to select a contractor. Selection criteria for all proposals shall be designed to evaluate the following:

1. Compliance with s. 26.385, Stats.
2. Qualifications and financial soundness of the applicant.
3. Technical feasibility and quality of the proposed work plan, including the feasibility of the proposed goals and performance measures and feasibility of the environmental and economic benefits identified as objectives of the application.
4. Compliance with the policies and goals of the forestry research and development grants program issued by the department.
5. Other factors the department or program administrator considers relevant.

(b) The department may modify or reject the proposed criteria in writing to the program administrator. The division administrator and the program administrator may negotiate new criteria to replace any modified or rejected criteria.

(c) The program administrator shall notify the division administrator in writing of its intent to make a grant award to a contractor, but may not enter into a grant agreement with the selected contractor for at least 5 business days after notice is received by the division administrator. The program administrator may choose to negotiate a combination of proposals from various contractors, if the program administrator determines that a combination would better meet the objectives of its contract with the department.

(d) The department may reject a proposed contractor for cause in writing to the program administrator within 5 business days of the receipt of a program administrator's notice of intent to award.

SECTION 2. EFFECTIVE DATE. The rule shall take effect 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. The 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 _____
Scott Hassett, Secretary

(SEAL)