

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
CREATING RULES

The Wisconsin Natural Resources Board proposes an order to create NR 1.25 relating to the definition of “generally accepted forestry management practices”.

FR-28-06

Summary Prepared by the Department of Natural Resources

1. **Statutes interpreted:** s. 823.075 (1)(d), Stats.

2. **Statutory authority:** s. 823.075 (1)(d), Stats.

3. **Explanation of agency authority:**

Section 823.075 (1)(s), Stats., requires the Department to define by rule “generally accepted forestry management practices” and allows the Department to incorporate by reference the most recent version of “Wisconsin Forest Management Guidelines” (FMG).

4. **Related statute or rule:**

Sections 59.69 (4)(a), 60.61 (2)(a), and 62.23 (7)(b), Stats., provide that a forestry operation may not be declared a nuisance if the forestry operation conforms to generally accepted forestry management practices. Also, under this legislation, a zoning ordinance may not prohibit forestry operations that are in accordance with generally accepted forestry management practices.

5. **Plain language analysis:**

The purpose of this rule is to define “generally accepted forestry management practices” and to incorporate by reference the most recent version of “Wisconsin Forest Management Guidelines” (FMG). The FMG provides a practical reference for landowners, foresters and loggers on techniques that support the sustainable management of forests in Wisconsin.

6. **Summary of, and comparison with, existing or proposed federal regulation:**

There are no known comparable federal regulations.

7. **Comparison with rules in adjacent states:**

There are some similarities to Michigan’s Right to Forestry Law (Act 676 of 2002). Iowa, Illinois and Minnesota do not have similar legislation.

In Michigan, “generally accepted forestry management practices” are defined as:

“...those practices as prescribed by the commission. In prescribing generally accepted forestry management practices, the commission shall give due consideration to available department information, written recommendation and comments from the department and other interested persons that may include, but are not limited to, all of the following:

- (i) the department of Agriculture.
- (ii) The Michigan state university extension.
- (iii) The United States department of agriculture agencies, services and programs.
- (iv) College and university forestry programs.
- (v) Professional, industry, and conservation organizations.”

The “commission” is the Commission of Natural Resources and the “department” is the Michigan Department of Natural Resources.

8. Summary of factual data and analytical methodologies:

The proposed definition of “generally accepted forestry management practices” is consistent with the definitions of “practice forestry”, “sound forestry practices” and “sound forestry” found in s. NR 46.02 (17), Wis. Admin. Code.

The document “Wisconsin Forest Management Guidelines” (FMG) is used by the Department as a guidance document. It was developed with a process that relied heavily on public participation. A draft edition of the FMG was distributed for public review between October 2002 and March 2003. Hundreds of comments were received in the course of five open houses and from letters. These comments were carefully considered during the development of the FMG. The proposed rule would require updates to the FMG a minimum of every five years and would require the Department to use a process that incorporates public participating, including public comments.

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

The intent of defining “generally accepted forestry management practices” is to help maintain the right of forest landowners to sustainably manage their forest land. Ensuring that landowners who voluntarily implement generally accepted forestry management practice will provide economic benefits, as well as environmental and social benefits, to communities both locally and statewide.

10. Effect on small business:

No significant fiscal effect on the private sector is anticipated. Cooperating foresters may see an increase in requests for assistance and development of stewardship plans if landowners want to ensure that they are complying with Wisconsin Forest Management Guidelines (FMGs) in order to be protected from a challenge that a forestry operation constitutes a public nuisance. Implementation of FMGs is a voluntary decision by a landowner and is not mandated by this rule.

11. Agency contact person:

Carmen Wagner, 608-266-1667, carmen.wagner@dnr.state.wi.us

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

The deadline for submission is September 1, 2006. Written comments may be submitted at the public hearings, by regular mail, fax or email to:

Carmen Wagner

Department of Natural Resources

Division of Forestry

PO Box 7921

Madison WI 53707

Fax: (608) 267-8576

dnrforestyrules@dnr.state.wi.us and include “generally accepted forestry management practice” in the subject line

Written comments may also be submitted to the Department using the Wisconsin Administrative Rules Internet Web site at <http://adminrules.wisconsin.gov>.

SECTION 1. NR 1.25 is created to read:

NR 1.25 Generally accepted forestry management practices. (1) DEFINITION REQUIRED. Section 823.075 (1)(d), Stats., requires the department to define generally accepted forestry management practices.

(2) DEFINITIONS. For the purpose of this chapter:

(a) "Department" means the Wisconsin department of natural resources.

(b) "Generally accepted forestry management practices" means sound and commonly accepted timber cutting, transporting and forest cultural methods recommended or approved by the department for most effective propagation and improvement of the various timber types common to Wisconsin.

(3) DEPARTMENT DUTIES. (a) The department developed "Wisconsin Forest Management Guidelines", PUB FR-226 2003, published by the department in October 2003, shall contain forestry management practices recommended and approved by the department.

Note: Copies of "Wisconsin Forest Management Guidelines", PUB FR-226 2003, are available for inspection at the offices of the Department of Natural Resources and the Revisor of Statutes. Copies may be obtained from the Wisconsin Department of Natural Resources, Division of Forestry, 101 S. Webster Street, P.O. Box 7921, Madison, WI, 53707-7921. Property owners may seek advice on implementation of generally accepted forestry management practices from department foresters, county foresters and cooperating foresters.

(b) The department shall periodically update "Wisconsin Forest Management Guidelines" so that a person may readily determine what forestry management practices are recommended and approved by the department. The department shall update "Wisconsin Forest Management Guidelines" a minimum of every 5 years.

(c) The department shall use a process that incorporates public participation and public comments when updating "Wisconsin Forest Management Guidelines".

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 _____

Scott Hassett, Secretary

(SEAL)