

Report From Agency

REPORT TO LEGISLATURE

NR 1.27, Wis. Adm. Code

Board Order No. FR-24-11
Clearinghouse Rule No. 13-023

Basis and Purpose of the Proposed Rule

The purpose of the rule is to provide a funding mechanism and associated guidelines to ensure Department owned and managed lands that are harvested for timber are adequately regenerated utilizing private cooperating foresters and private businesses.

2005 Act 166 promulgated the process to provide an inventory of all forested public lands, identify the forest resources available for management, develop annual allowable harvest levels, and undertake such management within 90% and 110% of those levels. Act 166 further provided a mechanism, through the use of Cooperating Foresters, to assist the department in establishing timber sales. What was not provided was an additional funding source to implement pre and post-harvest regeneration treatments in the areas identified to be managed. These funds are needed to ensure the forest continues to be sustainably managed and to assure that the post-harvest stand will continue to produce re-occurring forest products and other public benefits within state and certification guidelines. To date, department owned lands have seen a 190% increase in timber sale activity since 2005 from approximately 9700 acres to approximately 25,000 acres per year. With an increase in timber sale activities, regeneration needs closely follow the acres harvested.

In 2009, the Division of Forestry went through a property level analysis of what their projected annual regeneration needs would be (both in cost and area) for the next 10 years based on projected annual allowable harvest levels based on 2005 Act 166. It was determined that the regeneration costs (manpower, services, and supplies) significantly out-paced the funding available to perform regeneration related work given the increase in harvest levels.

In the absence of the new rule the department would rely on gifts, grants, and limited existing regeneration funds to implement regeneration activities on state owned lands. In the event that these funding sources would fall short of regeneration needs, the ability to achieve future desired conditions on state lands will continue to be hampered. In addition, land managers may be apprehensive to manage forests where regeneration is required. The new rule will provide assurance that funding will be available to implement forest regeneration activities after harvesting has occurred.

Summary of Public Comments

Comments were requested on the economic impacts of the rule in preparation of the Fiscal Estimate and Economic Impact Analysis on October 19th, 2012. The request was sent to cooperating foresters, members of Wisconsin Consulting Foresters (WCF), and small businesses that perform regeneration services. Two comments were received that the rule would allow them to expand their businesses and create additional jobs, and four comments were received that they are reducing their workloads and would not be affected.

The department requested comments and held a public hearing on the draft rule in Madison on April 26th, 2013. There were no appearances of record at the hearing and no comments were received during the comment period.

Modifications Made

No modifications were made as part of the hearing process.

Appearances at the Public Hearing

There were no appearances of record at the public hearing.

Changes to Rule Analysis and Fiscal Estimate

No changes were made to the rule analysis and fiscal estimate.

Response to Legislative Council Rules Clearinghouse Report

The recommendations have been accepted in part and incorporated into the rule. There was a request to consider clarifying the phrase in s. NR 1.27(3) "*are appropriate to contract for on individual timber sales*". Consideration was given to change the wording but the department retained the language as was written based on the intended practice and process that will be followed.

Final Regulatory Flexibility Analysis

This rule imposes no new compliance, reporting, or bookkeeping requirements for small business, nor are any design or operational standards contained in the rule. There is no expected adverse impact on small business. Therefore, under s. 227.19(3m), Stats., a final regulatory analysis is not required.