

**NATURAL RESOURCES BOARD AGENDA ITEM**

**SUBJECT:** Request approval of the Statement of Scope and to proceed with drafting of Board Order FR-24-11, related to regenerating harvested areas of Department owned and managed lands

**FOR:** DECEMBER 2011 BOARD MEETING

**TO BE PRESENTED BY / TITLE:** Teague Prichard, State Forest Specialist

**SUMMARY:**

2011 Act 32, Section 913e., Wis. Stat. s. 28.05 (3) (am), directs the Department to, by rule, establish a program that allows cooperating foresters and private contractors to assist the state in regenerating harvested areas of Department owned lands to meet the annual allowable timber harvest established under Wis. Stat. s. 28.025.

This rule will create a funding mechanism for artificial and natural regeneration treatments conducted by cooperating foresters and private contractors directly related to timber sales specified in 2005 Act 166. The rule shall authorize cooperating foresters and private contractors with whom the Department contracts with to receive a portion of the proceeds from timber harvests on Department owned lands. Regeneration treatments include site preparation, tree planting, and invasive species control associated with forest regeneration.

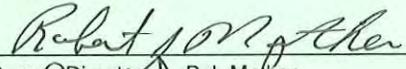
Entities that may be affected by the rule include: cooperating foresters and private contractors that perform regeneration services; forest nurseries that grow seedlings for regeneration; companies that sell pesticides used in site preparation, invasive plant control, and tree planting work; and companies that manufacture or sell equipment used in regeneration services.

**RECOMMENDATION:** Board approval of the Statement of Scope and to proceed with drafting of Board Order FR-24-11, related to regenerating harvested areas of Department owned and managed lands

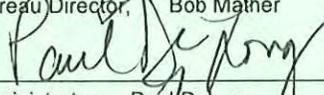
**LIST OF ATTACHED MATERIALS:**

- |    |                                     |   |     |                                     |          |
|----|-------------------------------------|---|-----|-------------------------------------|----------|
| No | <input checked="" type="checkbox"/> | Fiscal Estimate Required                              | Yes | <input 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 |

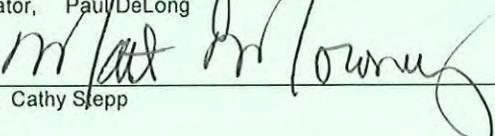
**APPROVED:**

  
\_\_\_\_\_  
Bureau Director, Bob Mather

11/17/11  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Administrator, Paul DeLong

11/18/11  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Secretary, Cathy Stepp

11/21/11  
\_\_\_\_\_  
Date

cc: NRB Liaison  
DNR Rules Coordinator

Tim Beyer - Plymouth

Teague Prichard - FR/4  
Kristin Lambert - FR/4  
Darrell Zastrow - FR/4

**CORRESPONDENCE/MEMORANDUM**

DATE: November 16, 2011

TO: Natural Resources Board Members

FROM: Cathy Stepp – Secretary, Department of Natural Resources

SUBJECT: Request approval of the Statement of Scope and to proceed with drafting of Board Order FR-24-11, related to regenerating harvested areas of Department owned and managed lands

**1. Description of the Objective of the Rule:**

This rule would establish a mechanism that allows cooperating foresters and private contractors to assist the WDNR in regenerating harvested areas of state owned lands to meet the annual allowable timber harvest established under Wis. Stat. s. 28.025. This rule will create a funding mechanism for artificial and natural regeneration treatments conducted by cooperating foresters and private contractors directly related to timber sales specified in 2005 Act 166. Regeneration treatments include site preparation, tree planting, and invasive species control associated with forest regeneration.

**2. Description of Existing Policies Relevant to the Rule and of New Policies Proposed to Be Included in the Rule and an Analysis of Policy Alternatives:**

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 (Wis. Stat. s.28.05 (3)). What was not provided with these previous provisions was a mechanism and funding source to implement harvest regeneration treatments in managed areas. Regenerating forest lands is a critical component of sustainable forest management, and the Department has a commitment and responsibility to ensure state owned forest lands are regenerated. Funds are needed to ensure harvested areas will continue to produce re-occurring forest products and other public benefits within state and certification guidelines.

This rule will include provisions authorizing the Department to contract with cooperating foresters and private contractors to conduct artificial and natural forest regeneration activities including site preparation, tree planting, and invasive species control associated with forest regeneration. The rule shall authorize cooperating foresters and private contractors with whom the Department contracts under this paragraph to receive a portion of the proceeds from timber harvests on state lands.

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 more complex ecosystems where a quick response of regeneration is required. The new rule will provide assurance that funding will be available to implement forest regeneration activities after harvesting has occurred.

**3. Statutory Authority for the Rule:**

2011 Act 32, Section 913e., Wis. Stat. s. 28.05 (3) (am), directs the Department to, by rule, establish a program that allows cooperating foresters and private contractors to assist the state in regenerating

harvested areas of state lands to meet the annual allowable timber harvest established under Wis. Stat. s. 28.025.

**4. Estimate of Amount of Time that State Employees Will Spend Developing the Rule and of Other Resources Necessary to Develop the Rule:**

The Department estimates that approximately 170 hours of existing staff time will be needed to develop this new rule. No other additional resources will be needed to develop the rule.

**5. Description of All Entities that May be Affected by the Rule:**

- Cooperating foresters and private contractors that perform regeneration services
- Forest nurseries that grow seedlings for regeneration
- Companies that sell pesticides used in site preparation, invasive plant control, and tree planting work
- Companies that manufacture or sell equipment used in regeneration services (e.g. sprayers, tree planting equipment, etc.)
- The forest products industry through continued maintenance of managed forests

**6. Summary and Preliminary Comparison With Any Existing or Proposed Federal Regulation that is Intended to Address the Activities to be Regulated by the Proposed Rule:**

The Federal Government provides a similar mechanism on federal lands. The USDA Forest Service utilizes the KV (Knutson-Vandenberg) – BD (Brush Disposal) accounts, which are deductions from timber sales to fund forest regeneration and reduce fire hazard. The USDI Bureau of Indian Affairs utilizes FMD (Forest Management Deductions) under 25. CFR § 163.25 for a similar purpose and method.

**7. Economic Impact:**

Level 3 – Little to no economic impact expected. A positive economic impact may occur for businesses that provide regeneration services.

**Agency Contact Person:**

Teague Prichard  
Bureau of Forest Management  
Wisconsin Department of Natural Resources  
101 S. Webster Street  
P.O. Box 7921  
Madison, WI 53707-7921  
(608) 264-8883  
[Teague.Prichard@Wisconsin.gov](mailto:Teague.Prichard@Wisconsin.gov)

# STATEMENT OF SCOPE

## Department of Natural Resources

Rule No.: FR-24-11

Relating to: Regenerating Harvest Areas of State Owned Lands

**1. Description of the objective of the rule:**

This rule would establish a mechanism that allows cooperating foresters and private contractors to assist the WDNR in regenerating harvested areas of state owned lands to meet the annual allowable timber harvest established under Wis. Stat. s. 28.025. This rule will create a funding mechanism for artificial and natural regeneration treatments conducted by cooperating foresters and private contractors directly related to timber sales specified in 2005 Act 166. Regeneration treatments include site preparation, tree planting, and invasive species control associated with forest regeneration.

**2. Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives; the history, background and justification for the proposed rule:**

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 (Wis. Stat. s.28.05 (3)). What was not provided with these previous provisions was a mechanism and funding source to implement harvest regeneration treatments in managed areas. Regenerating forest lands is a critical component of sustainable forest management, and the Department has a commitment and responsibility to ensure state owned forest lands are regenerated. Funds are needed to ensure harvested areas will continue to produce re-occurring forest products and other public benefits within state and certification guidelines.

This rule will include provisions authorizing the Department to contract with cooperating foresters and private contractors to conduct artificial and natural forest regeneration activities including site preparation, tree planting, and invasive species control associated with forest regeneration. The rule shall authorize cooperating foresters and private contractors with whom the Department contracts under this paragraph to receive a portion of the proceeds from timber harvests on state lands.

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 more complex ecosystems where a quick response of regeneration is required. The new rule will provide

assurance that funding will be available to implement forest regeneration activities after harvesting has occurred.

**3. Statutory authority for the rule (including the statutory citation and language):**

2011 Act 32, Section 913e., Wis. Stat. s. 28.05 (3) (am), directs the Department to, by rule, establish a program that allows cooperating foresters and private contractors to assist the state in regenerating harvested areas of state lands to meet the annual allowable timber harvest established under Wis. Stat. s. 28.025.

**4. Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:**

The Department estimates that approximately 170 hours of existing staff time will be needed to develop this new rule. No other additional resources will be needed to develop the rule.

**5. Description of all entities that may be impacted by the rule:**

- Cooperating foresters and private contractors that perform regeneration services
- Forest nurseries that grow seedlings for regeneration
- Companies that sell pesticides used in site preparation, invasive plant control, and tree planting work
- Companies that manufacture or sell equipment used in regeneration services (e.g. sprayers, tree planting equipment, etc.)
- The forest products industry through continued maintenance of managed forests

**6. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule:**

The Federal Government provides a similar mechanism on federal lands. The USDA Forest Service utilizes the KV (Knutson-Vandenberg) - BD (Brush Disposal) accounts, which are deductions from timber sales to fund forest regeneration and reduce fire hazard. The USDI Bureau of Indian Affairs utilizes FMD (Forest Management Deductions) under 25. CFR § 163.25 for a similar purpose and method

**Contact Person:**

Teague Prichard  
Bureau of Forest Management  
Wisconsin Department of Natural Resources  
101 S. Webster Street  
P.O. Box 7921  
Madison, WI 53707-7921  
(608) 264-8883  
[Teague.Prichard@Wisconsin.gov](mailto:Teague.Prichard@Wisconsin.gov)

---

Department Head Signature

---

Date Submitted

Natural Resources Board Order Number (If Applicable) <p style="text-align: center; font-size: 1.2em;">FR-24-11</p>	Bureau <p style="text-align: center;">Forest Management</p>
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Amended	Date <p style="text-align: center; font-size: 1.2em;">9/26/2011</p>

1. Subject of the administrative code action/nature of board action.  
 Authorization to develop a new rule that allows cooperating foresters and private contractors to assist the WDNR in regenerating harvested areas of state owned lands to meet the annual allowable timber harvest established under Wis. Stat. s. 28.025.

2. Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue.  
 See "Policy Analysis"(Item #2) and "Entities Affected by the Rule" (Item #5) on the attached sheet.

The rule is anticipated to be a Level 3 Economic Impact - Little to no economic impact expected. A positive economic impact may occur for businesses that provide regeneration services.

3. Does rule/board action represent a change from past policy?  Yes  No Explain the facts that necessitate the proposed change.

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 (Wis. Stat. s. 28.05 (3)). What was not provided with these previous provisions was a mechanism and funding source to implement harvest regeneration treatments in managed areas. The Department has always had authority to contract for regeneration practices on state lands, but in the past had to pay the expense out of operating funds or gift accounts. A dedicated funding mechanism to pay for contracted regeneration practices will be a new tool for Department land managers. Regenerating forest lands is a critical component of sustainable forest management, and the Department has a commitment and responsibility to ensure that state owned forest lands are regenerated to meet future desired conditions. Funds are needed to ensure harvested areas will continue to produce re-occurring forest products and other public benefits within state and certification guidelines.

4. Does rule/board action represent an opportunity for pollution prevention and/or waste minimization?

- Yes
- Unsure. Will consult with the Bureau's pollution prevention expert(s) and/or the Bureau of Cooperative Environmental Assistance.
- No. Adoption of federal requirements that do not include or allow for pollution prevention.
- No. Other reason (explain):

This rule does not concern pollution prevention or waste minimization.

5. Who will participate in board action/rule development, and what is the anticipated time commitment?

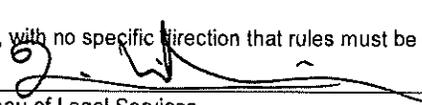
	Name of Person Responsible	Time Before Hearing	Time After Hearing	Acknowledgement
a. Drafting bureau	Teague Prichard, Bureau Forest Mgmt	80	40	TDP
b. Legal Services	Quinn Williams	16	8	Q.W.
c. Env. Analysis/Liaison (SS)	Jim Pardee	5	5	J.P.
d. Management & Budget	Will Christianson	10	4	W.C.
e. Other Department staff				
f. Recommended Public Participation				

6. Which federal statute, regulation, state statute or judicial decision is the authority for the proposed rule/board action?

2011 Wisconsin Act 32

Wis. Stat. s. 28.05 (3)

- a.  The proposed rule/board action conforms to and does not exceed requirements of a federal or state statute or controlling judicial decision.
- b.  The proposed rule/board action exceeds the minimum requirements of a federal or state statute or controlling judicial decision.
- c.  The proposed rule/board action is based on general authorization that requires rule making, but contains no specific standards.
- d.  The proposed rule/board action is based on a general authorization, with no specific direction that rules must be developed.

  
Bureau of Legal Services

7. Proposed schedule (Fill in blanks applicable)

a. Month of green sheet for requesting authorization for hearing or briefing on proposed board action: January 2012

b. Hearing(s) - Number: 1

Date(s): April/May 2012

Location(s): Madison

c. Rule adoption or action by Board: July/August 2012

Anticipated timing of Legislative review - Start: October 2012

End: December 2012

Anticipated effective date: March 2013

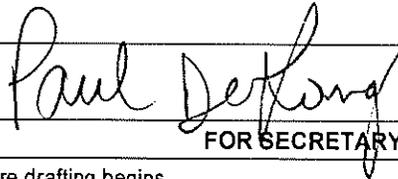
Initials of Bureau Director: PJ/m

FOR DIVISION ADMINISTRATOR'S USE

8a. Recommendation to Secretary  Approved  Approved as amended  Disapproved

b. Other Board actions  Approved  Approved as amended  Disapproved

Division Administrator's Signature



Date Signed

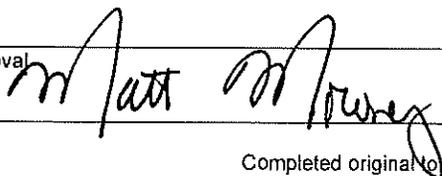
9/27/11

FOR SECRETARY'S USE

9. Secretary's approval required before drafting begins.

Drafting  may  may not proceed on rule or action.

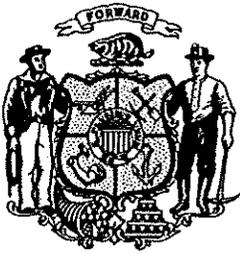
Secretary's Approval



Date Approved

10/11/11

Completed original to be filed with the Bureau of Legal Services.



**SCOTT WALKER**  
**OFFICE OF THE GOVERNOR**  
**STATE OF WISCONSIN**

P.O. Box 7863  
MADISON, WI 53707

November 3, 2011

Cathy Stepp  
Secretary  
Wisconsin Department of Natural Resources  
101 South Webster St.  
P.O. Box 7921  
Madison, WI 53707-7921

**RE: Statement of Scope relating the regenerating harvested areas of Wisconsin  
DNR owned and managed lands**

Dear Secretary Stepp,

I hereby approve the Statement of Scope submitted on September 26, 2011, pursuant to Wisconsin Statutes § 227.135, in regards to regenerating harvested areas of Wisconsin DNR owned and managed lands. You may send the Statement of Scope to the Legislative Reference Bureau for publication pursuant to Wisconsin Statutes §§ 227.135(3).

Sincerely,

Scott Walker  
Governor