

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
CREATING RULES

The Wisconsin Natural Resources Board proposes to create ch. NR 192 relating to lake monitoring contracts and the citizen lake monitoring network.

FH-41-05

Analysis Prepared by the Department of Natural Resources

Statutes interpreted: s. 281.68, Stats.

Statutory authority: ss. 281.68 and 227.11(2)(a), Stats.

Explanation of agency authority: This order implements s.281.68 (3)(bg), Stats., which directs the department to promulgate rules for the administration of a lake monitoring contracts program. The rules are to specify eligible activities and qualifications for participation in a statewide lake monitoring network. Further, s. 281.68(2)(b), Stats., provides that the total annual amount of contracts not exceed more than 10 percent of the total appropriation under s. 20.370(6)(ar), lake protection grants. For the 05-06 fiscal year this amount is approximately \$370,000.

Related statute or rule: Administrative rule Adm. 10 governs all state agency procurement procedures. The rule is incorporated by reference in the proposed NR 192.

Plain language analysis: The Department will establish a network of citizen monitors to collect information about the environmental health of the state's lakes. The Department will register, train and equip citizens to collect data that the Department will receive and analyze and make available to the public. The rule lists the types of monitoring activities citizens may conduct. The Department will provide monitoring protocols to assure consistent results. Qualified citizen monitors must participate in Department sponsored training and have access to a boat, computer and telephone. The Department may use contracts with other agencies and private corporations to provide the training, equipment and other goods and services needed to support the network. The process for issuing contracts will comply with all applicable state law.

Comparison to federal regulations: Though federal authorities support and encourage states to develop citizen monitoring programs, there are not comparable rules.

Comparison with rules in adjacent states: Though other surrounding states have citizen monitoring programs, none have promulgated a comparable rule.

Summary of factual data and analytical methods: None.

Analysis to determine effect on small business: None.

Anticipated costs incurred by private sector: None

Effect on small business: Small business may benefit by receiving contracts for support of the citizen-monitoring network. Contracting will follow current state procurement rules. The proposed rule does not change how contracts are awarded. Therefore, under s. 227.114, Stats., an initial regulatory flexibility analysis is not required.

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SECTION 1. Chapter NR 192 is created to read:

Chapter NR 192 Lake Monitoring Contracts and Citizen Lake Monitoring Network

- NR 192.01 Purpose.
- NR 192.02 Applicability.
- NR 192.03 Definitions.
- NR 192.04 Establishing the network.
- NR 192.05 Qualifications for participation in the network as a citizen monitor.
- NR 192.06 Citizen monitor registration.
- NR 192.07 Contracts.

NR 192.01 Purpose. The purpose of this chapter is to establish administrative procedures for the lake monitoring contracts program and to specify the eligible activities and qualifications for participation in the statewide lake monitoring network pursuant to s. 281.68(3)(bg), Stats. Citizen lake monitoring is a vital and necessary component of the state's lake protection strategy. The statewide lake monitoring network provides quality, cost-effective lake data useful to federal, state and local lake management efforts on the use of lakes and the understanding of the natural ecosystem of lakes and the water quality of lakes. The purpose of the lake monitoring contract program is to provide training, equipment and support to a statewide network of citizens so that they can provide useful information for the protection and restoration of Wisconsin lakes.

NR 192.02 Applicability. Public groups or persons receiving contracts from the department for the support of a statewide lake monitoring network and persons participating in the network as a citizen monitor shall comply with the provisions of this chapter.

NR 192.03 Definitions. In this chapter:

(1) "Aquatic invasive species" means nonindigenous water or wetland-dwelling organisms or their hybrids whose introduction into aquatic ecosystems causes or is likely to cause adverse economic, recreational or environmental impacts or harm to human health.

(2) "Citizen monitor" means a person registered with the department for participation in the statewide lake monitoring network and trained in the collection, reporting and interpretation of lake data.

(3) "Department" means the department of natural resources.

(4) "Lake" means a lake, reservoir, flowage, or millpond, or portion thereof, within the boundaries of this state that is listed by the department in the most current version of Wisconsin Lakes, publication FM-800.

Note: Pub-FM-800 Wisconsin Lakes includes a listing of most inland lakes in the state. The most current revision is available from the Department of Natural Resources, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707 or at: <http://www.dnr.state.wi.us/org/water/fhp/lakes/lakeinfo.htm#lakebook>.

(5) "Network" means the statewide lake monitoring network consisting of all the citizen monitors listed in the department's Lake Monitoring Directory.

Note: A copy of the Lake Monitoring Directory is available at www.dnr.wi.gov/org/water/fhp/lakemonitors/list.

(6) "Network supporter" means the public groups or persons contracting with the department to provide the goods and services necessary for the operation and maintenance of the network.

(7) "Person" means an individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency.

(8) "Public groups" includes but is not limited to local governmental units as defined in s. 66.0131 (1) (a), Stats., federally recognized Indian tribes, nonprofit conservation organizations, qualified lake association as defined in s. 281.68 (1), Stats., qualified school districts, technical colleges, public and private colleges and universities, the U.S. Postal Service and any subdivision of state government other than the department's division of water.

NR 192.04 Establishing the network. The department shall establish and maintain a lake monitoring network which shall do all of the following:

- (1) Register and train citizen monitors in the collection and reporting of lake data.
- (2) Provide support to the network through contracts and its technical staff.
- (3) Develop lake monitoring protocols for the following citizen monitoring activities:
 - (a) Water clarity, quality and trophic condition.
 - (b) Aquatic invasive species monitoring.
 - (c) Aquatic plant monitoring.
 - (d) Lake water level monitoring.
 - (e) Lake and shoreland ecology including fish, wildlife, plants and habitat feature monitoring.
 - (f) Lake and watershed use monitoring.
 - (g) Lake ice coverage and duration monitoring.
- (4) Analyze, report and share the data collected through the network.

NR 192.05 Qualifications for participation in the network as a citizen monitor. To participate in the network as a citizen monitor, a person shall meet all of the following conditions:

- (1) Attend department-sponsored training and demonstrate requisite skill in the lake monitoring protocol.
- (2) Have access to a boat that can be used to conduct lake monitoring.
- (3) Have access to a computer and telephone for reporting data and to conduct monitoring protocols.

NR 192.06 Citizen monitor registration. (1) All citizen monitors shall be registered with the department.

(2) Persons desiring to become monitors shall request participation in the lake monitoring network in writing from the lake monitoring coordinator indicating the lake and type of monitoring of interest.

(3) The lake monitoring coordinator shall consult with the department to determine the need for the monitoring activity and inform the requestors of their acceptance or denial into the network.

(4) Persons accepted by the department as network monitors shall complete DNR form 3200-101 and provide the lake monitoring coordinator with the information necessary to enter them in the volunteer monitoring network database.

Note: The lake monitoring coordinator is a statewide position funded by the department and located at the College of Natural Resources, University of Wisconsin, Stevens Point, WI 54481-3897. The coordinator can be contacted by phone at (715) 346-3989 or email at uwexlakes@uwsp.edu. Form 3200-101 will be provided by the department at the completion of training.

NR 192.07 Contracts. (1) The department may contract with public groups or persons to support the network for any of the following:

- (a) The cost of training, communication and education for citizen monitors.

(b) The cost of equipment and supplies necessary for the collection, preservation, and recording of samples or specimens and observations.

(c) The cost of shipping and handling, laboratory analysis and identification, quality assurance and control, and entry of data into the statewide lake database system.

(d) The cost of developing and operating database systems for registering and tracking the network and citizen monitors' informational requirements and for storing, evaluating and reporting results.

(e) The cost of producing and distributing reports on the results of monitoring.

(f) The cost of research and demonstration projects to develop and apply new methods and protocols for network participation.

(g) The cost of recognition awards and appreciation for the achievements of citizen monitors and the network.

(2) All contracts for support of the network shall comply with ch. Adm 10 and any other applicable laws as appropriate.

SECTION 2 EFFECTIVE DATE. This 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. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on February 22, 2006.

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)