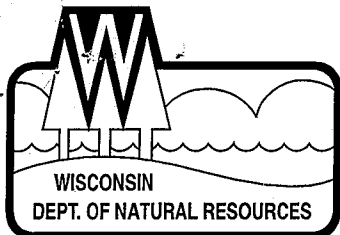


# Clearinghouse Rule 00-076

## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES



Tommy G. Thompson, Governor  
George E. Meyer, Secretary

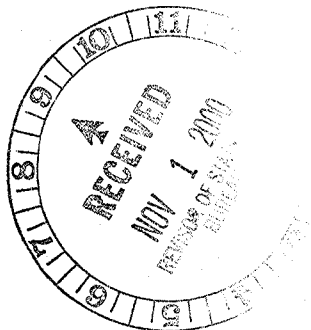
Box 7921  
101 South Webster Street  
Madison, Wisconsin 53707-7921  
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STATE OF WISCONSIN )  
 ) ss  
DEPARTMENT OF NATURAL RESOURCES )

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, George E. Meyer, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. FH-17-00 was duly approved and adopted by this Department on August 16, 2000. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Natural Resources Building in the City of Madison, this 30th day of October, 2000



*George E. Meyer*  
George E. Meyer, Secretary

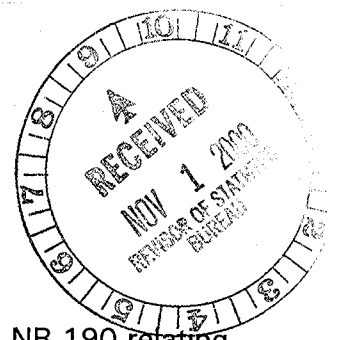
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CR 00-076  
1-1-01

Quality Natural Resources Management  
Through Excellent Customer Service



ORDER OF THE STATE OF WISCONSIN  
NATURAL RESOURCES BOARD  
REPEALING AND RECREATING RULES



The Wisconsin Natural Resources Board proposes repeal and recreation of NR 190 relating to lake planning grants.

**FH-17-00**

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 281.68(3) and 227.11(2)(a) Stats.

Statutes interpreted: s. 281.68(3), Stats.

This order establishes the eligibility, other requirements and procedures for receiving applications and awarding grants for lake planning. It implements changes in statute that allow for a broader range of eligible activities. Amendments to s. 281.68, Stats. in the biennial budget bill expanded the scope of eligible grant activities to include, in addition to water quality studies, projects that assess broader elements of the lake ecosystem including fish and aquatic life and their habitat, the uses of lakes and shorelands as well as general education.

The original code is repealed to allow for restructuring the rule into subchapters that establish small-scale and large-scale planning projects. This distinction will better address the varying size and complexity of the state's lakes and the corresponding planning project needs. Small-scale projects with a per project grant maximum of \$3,000 will be used to obtain and disseminate basic lake information, conduct education projects and develop management goals for lakes where a detailed plan is unwarranted, is in place, or needs updating. Also, a small-scale project may be used as a first phase in the development of a management plan. The \$3,000 cap will allow funding more grants with the same level of funding. A new priority system has been developed for these grants.

Large-scale projects will retain many of the features of the current program with an emphasis on developing more detailed lake management plans for larger lakes or lakes where the management challenges are more complex and technical. The priorities system for these projects has been revised to address projects that may require more than one grant accomplish.

These rules effect potential sponsors of lake management activities which include lake organizations, local government, tribes and nonprofit conservation organizations. The effects are believed to be positive, by providing a broader range of grant eligible activities.

The proposed rule is a type III action under NR 150, Wis. Adm. Code, and will not require an environmental assessment. Small business is not affected by the rule because grants are issued only to governmental units or nonprofit organizations. Therefore, under s. 227.114, Stats., an initial regulatory flexibility analysis is not required.

Repeal and recreation of  
Chapter NR 190

LAKE MANAGEMENT PLANNING GRANTS

**Subchapter I – General Provisions**

- NR 190.001 Purpose
- NR 190.002 Applicability
- NR 190.003 Definitions
- NR 190.004 Grantee accountability
- NR 190.005 Eligible and ineligible costs
- NR 190.006 Variances

**Subchapter II – Small-scale Projects**

- NR 190.01 Purpose
- NR 190.02 Applicability
- NR 190.03 Eligible applicants
- NR 190.04 Eligible planning projects
- NR 190.05 Applications
- NR 190.06 Determination of project eligibility
- NR 190.07 Priorities
- NR 190.08 Grant awards

**Subchapter III – Large-scale Projects**

- NR 190.11 Purpose
- NR 190.12 Applicability
- NR 190.13 Eligible applicants
- NR 190.14 Eligible planning projects
- NR 190.15 Applications
- NR 190.16 Determination of project eligibility
- NR 190.17 Priorities
- NR 190.18 Grant awards

**Subchapter I – General Provisions**

**NR 190.001 Purpose.** The purpose of this chapter is to establish procedures for implementing a lake management planning grant program as provided for in s. 281.68, Stats. Grants made under this program will assist lake planning projects. They will assist local organizations by helping to provide information and education on the uses of lakes, the quality of water in lakes, and the quality of fish, aquatic life and their habitat in lakes and the general quality of lake ecosystems. They will be used to improve lake management assessment and planning, by increasing local understanding of the causes of lake problems, and by aiding in the selection of activities to prevent degradation of lakes and protect or improve the quality of lakes and their ecosystems. This grant program is intended to provide support and guidance to local organizations which are interested in helping to manage and protect lakes and which will often have limited resources and organizational capabilities to do so.

**NR 190.002 Applicability.** This chapter applies to all counties, cities, towns,

villages, tribes, qualified lake associations as defined in s. 281.68(1)(b), Stats., public inland lake protection and rehabilitation districts, and town sanitary districts and other local governmental units as defined in s. 66.299(1)(a), Stats., and qualified nonprofit conservation organizations as defined in s. 23.0955(1), Stats., applying for financial assistance under s. 281.68, Stats., for a planning project for a public inland lake or lakes.

**NR 190.003 Definitions.** The following definitions are applicable to terms used in this chapter:

- (1) "Department" means the Wisconsin department of natural resources.
- (2) "Grant period" means the time period stated in the grant agreement during which the grant recipient is eligible to expend program grant funds for a project.
- (3) "Local share" means that portion of the cost of the project other than state funds administered by the department.
- (4) "Management unit" means a county, town, village, city, federally recognized Indian tribe, public inland lake protection and rehabilitation district, nonprofit conservation organizations or qualified lake association, as defined in s. 281.68(1)(b), Stats.
- (5) "Nonprofit conservation organization" has the meaning in s. 23.0955(1), Stats.
- (6) "Planning project" means a specific lake data acquisition, assessment, or evaluation activity to provide information on the existing or expected future quality of public inland lakes and their ecosystems or activities that may affect the quality of public inland lake ecosystems. It may also include activities related to the collection and dissemination of educational information for the purpose of promoting an understanding of lakes, lake ecosystems and their uses.
- (7) "Planning project priority list" means a ranking by the department of lake planning projects in the order of their scheduled receipt of funds.
- (8) "Public inland lake" means part or all of a lake, reservoir or flowage, or millpond within the boundaries of the state that is presently accessible to the public by contiguous public lands or easements giving public access.

**NR 190.004 Grantee accountability.** (1) Accounting for all planning project funds shall conform to generally accepted accounting principles and practices, and shall be recorded by the grant recipient in a separate account. Supporting records of grant expenditures shall be maintained in sufficient detail to show that grant funds are used for the purpose for which the grant is made. All financial records, including invoices and canceled checks or bank statements, that support all planning project costs claimed by the grant recipient shall be maintained and available for inspection for 3 years after final payment.

(2) The grant recipient shall submit to the department a claim for payment on forms provided by the department within 6 months after the planning project ending date. All costs claimed for payment shall be documented and shall be consistent with the grant agreement relative to expenditures made within the grant period, within the scope of work, and within estimated costs. The grant recipient may request, for good cause, a grant agreement amendment for expenditures in excess of those identified as estimated costs in the grant agreement.

(3) All of the grant recipient's records pertaining to the planning project are subject to audit. Claims made for payment may be adjusted by audit.

(4) All water tests, which require laboratory analyses and which, are part of the

planning project shall be analyzed by a laboratory, which has been selected by the department.

(5) Any grant provided for funding of a planning project that includes acquisition of physical or chemical data may be conditioned upon the grant recipient being required to implement a quality control and quality assurance plan approved by the department.

(6) Data and information acquired as part of the planning project shall be reported to the department in a format specified by the department in the grant agreement.

(7) All planning projects shall have as an element a final report that is suitable for use by the general public. For some projects the department may allow the use of standardized forms as a substitute for a final report.

(8) No applicant may receive more than 2 planning grants per funding cycle.

(9) The cumulative state share of the cost of all planning projects funded under this chapter may not exceed \$100,000 for any one lake.

(10) A grant awarded under this chapter may be terminated by the department for nonperformance of any term or condition of the grant agreement and the department may seek reimbursement of the state share previously distributed to the grant recipient.

(11) If the department finds that the planning project has not been satisfactorily completed by the end of the grant period, the department may seek reimbursement of the state share previously distributed to the grant recipient.

**NR 190.005 Eligible and ineligible costs.** (1) **ELIGIBLE COSTS.** Reasonable and necessary project costs, which are consistent with the approved project, as determined by the department, and incurred during the project period are eligible for grants. Eligible costs may include:

(a) Labor costs required for carrying out activities identified in the grant agreement. Costs shall be based on management unit rates for the position including salary, fringe benefits and other items determined to be appropriate by the department.

(b) Direct costs for laboratory analysis, surveys, newsletters, brochures, mailings, professional service contracts and similar items.

(c) The cost of necessary supplies and equipment used exclusively for project-related purposes over its useful life or the cost of the portion of supplies or equipment used for the project.

(d) The costs of leased equipment and facilities for the length of the project.

(e) The substantiated value of donated materials, equipment, services and labor as all or part of the local share of the project cost subject to all of the following:

1. All sources of local share donation shall be indicated when the application for a grant is submitted.

2. The maximum value of donated labor shall be equal to the prevailing federal minimum wage requirements.

3. The value of donated equipment shall conform to the Wisconsin department of transportation highway rates for equipment.

**Note:** The county highway rates for equipment are formulated under s. 84.07. Stats., and can be found in chapter 5 of the State Highway Maintenance Manual published by the Wisconsin Department of Transportation, 4802 Sheboygan Avenue, Madison, WI 53705.

4. The value of donated materials and services shall conform to market rates and be established by invoice.

(f) Other costs determined by the department to be necessary to carry out an

adequate planning project.

(2) **INELIGIBLE COSTS.** Costs not directly associated with or necessary for the implementation of the project as determined by the department are ineligible for grants. Ineligible costs include:

(a) Fines and penalties due to violation of, or failure to comply with, federal, state or local laws and regulations.

(b) Ordinary operating expenses of local government applicants, such as salaries and expenses of public officials, that are not directly related to the project.

(c) Purchase of boats, autos or office furniture.

(d) Capital improvement project costs.

**NR 190.006 Variances.** The department may approve in writing a variance from a requirement of this chapter upon the written request of an applicant if the department determines that a variance is essential to effect necessary grant actions or program objectives and where special circumstances make a variance in the best interest of the program. Before approving a variance, the department shall take into account factors such as good cause and circumstance beyond the control of the applicant. The department may not grant variances from statutory requirements.

## **Subchapter II – Small-scale Projects**

**NR 190.01 Purpose.** Small-scale projects are intended to address the planning needs of lakes where education and public awareness, obtaining basic information on lake use and conditions, or enhanced organizational capacity are the primary project objectives. These will be protection-oriented, often volunteer-led efforts, that will be used to develop a foundation for lake management efforts or updating existing plans.

**NR 190.02 Applicability.** This subchapter applies to all applicants for and recipients of small-scale planning grants.

**NR 190.03 Eligible applicants.** All management units are eligible applicants for small-scale projects.

**NR 190.04 Eligible planning projects.** Planning projects eligible for funding under this subchapter include:

(1) Lake trend monitoring projects. Projects that collect and report chemical, biological and physical data about lake ecosystems to provide long term base line information and monitor trends in lake ecosystem health.

(2) Lake education projects. Projects that will assist management units in collecting and disseminating existing information about lakes for the purpose of broadening the understanding of lake use, lake ecosystem conditions and lake management techniques.

(3) Organization development projects. Projects that will assist management units in the formation of goals and objectives for the management of a lake or lakes.

(4) Studies, assessments and other activities as needed to implement or augment management goals or a plan for a lake or lakes or combinations of other activities listed in this subchapter.

**NR 190.05 Applications.** (1) Applications from management units for funding of small-scale planning projects shall be made on forms provided by the department and shall be submitted to the region director for the region in which the planning project is located.

**Note:** Forms may be obtained free of charge from the following DNR region headquarters located at:

1. Southeast -- 2300 N. Dr. Martin Luther King Jr. Dr., Box 12436, Milwaukee 53212
2. South Central -- 3911 Fish Hatchery Road, Fitchburg 53711
3. Northeast -- 1125 N. Military Ave., Box 10448, Green Bay 54307
4. Northern/Rhineland -- 107 Sutliff Ave., Rhineland 54501
5. Northern/Spooner -- 810 W. Maple St., Spooner 54801
6. West Central -- 1300 W. Clairemont Ave., Call Box 4001, Eau Claire 54702

(2) The department shall review the application for completeness and may return the application with a request for more detailed information. The application is not considered complete until the additional information requested by the department has been received.

(3) The department shall receive planning project applications by February 1 and by August 1 of each year for a project to be eligible for grant awards in the subsequent 6-month period.

**NR 190.06 Determination of planning project eligibility.** (1) Following receipt of the application, the department shall make a determination of planning project eligibility. The department may accept the application and include the project in the priority list developed under s. NR 190.07(1), or deny the request for funding based on consideration of the factors identified in s. 281.68 (1), (1r), (2) or (3), Stats.

(2) The total state share of the cost of small-scale project may not exceed \$3,000.

(3) The department shall state the basis for determination of ineligibility in writing to the affected management unit.

**NR 190.07 Priorities.** (1) The department shall prepare or update a planning project priority list by March 1 and September 1 of each year. The planning project priority list shall include new applications received and accepted by the department under s. NR 190.05.

(2) Priorities shall be set on a statewide basis.

(3) Applications for lakes which meet the minimum boating access standards of s. NR 1.91(4) or where the department determines that existing facilities are sufficient to meet existing public demand for access, shall receive priority over lakes which do not meet these conditions.

(4) The department shall consider the following factors when developing a project priority list:

(a) The utility of the data and information that will be generated for assessing lake ecosystems.

(b) The degree to which the project will enhance knowledge and understanding of lake ecosystems.

(c) The degree to which the project will assist local decision-making and provide for the formation of goals or a strategy to protect a lake or lakes and lake ecosystems.

(d) The degree to which the project will likely result in significant improvement in the management of a lake or lakes and lake ecosystems.

(e) The degree of public access to the lake.

(f) Whether it is a first-time small scale application.

**NR 190.08 Grant awards.** (1) The department shall issue grant awards based upon the planning project priority list developed under s. NR 190.07. Grant awards shall be made twice each year.

(2) The grant award may not exceed the state share of the estimated costs of the planning project as set out in the grant application.

(3) The state share of the planning project cost may not be greater than 75% of the eligible planning project costs.

(4) The local share of the planning project cost may not be less than 25% of the eligible planning project costs.

(5) The department may distribute up to 100% of the state share of the small-scale planning project costs based upon the estimated cost to the grant recipient following acceptance of the grant agreement by the applicant.

### **Subchapter III – Large-scale Projects**

**NR 190.11 Purpose.** Large-scale projects are intended to address the needs of larger lakes and lakes with complex and technical planning challenges. The intent of these projects is to result in a lake management plan that may require more than one grant to complete.

**NR 190.12 Applicability.** This subchapter applies to all management units applying for large-scale projects.

**NR 190.13 Eligible applicants.** All management units are eligible applicants for large-scale projects.

**NR 190.14 Eligible planning projects.** (1) Activities eligible for funding under this subchapter include:

(a) Acquisition of new or updated, physical, chemical and biological information within lakes or lake ecosystems.

(b) Definition and mapping of lake watershed boundaries, sub-boundaries and drainage system components.

(c) Descriptions and mapping of existing and potential land conditions, activities and uses within lake watersheds that may affect the water quality of a lake or its ecosystem.

(d) Assessments of water quality and of fish, aquatic life and their habitat.

(e) Review, evaluation or development of ordinances and other local regulations related to the control of pollution sources, recreational use or other human activities that may impact water quality, fish and wildlife habitat, natural beauty or other components of the lake ecosystem.

(f) Acquisition of sociological information such as census data and lake use information that is necessary to the development of a long-term lake use plan.

(g) The analysis, evaluation, reporting and dissemination of information obtained as part of the planning project.

(h) The development of alternative management strategies, plans and specific project designs necessary to identify appropriate lake protection or improvement projects.



(2) Planning projects in this subchapter may apply to groups of lakes particularly for the purpose of coordinating and organizing regional and countywide lake organization, education, monitoring, planning and protection.

**NR 190.15 Applications.** (1) Applications from management units for funding of large-scale planning projects shall be made on forms provided by the department and shall be submitted to the region director for the region in which the planning project is located.

**Note:** Forms may be obtained free of charge from the following DNR region headquarters located at:

1. Southeast -- 2300 N. Dr. Martin Luther King Jr. Dr., Box 12436, Milwaukee 53212
2. South Central -- 3911 Fish Hatchery Road, Fitchburg 53711
3. Northeast -- 1125 N. Military Ave., Box 10448, Green Bay 54307
4. Northern/Rhineland -- 107 Sutliff Ave., Box 818, Rhineland 54501
5. Northern/Spooner -- Hwy 70 West, Box 309, Spooner 54801
6. West Central -- 1300 W. Clairemont Ave., Call Box 4001, Eau Claire 54702

(2) If the project is proposed as a phase in the development of a multiple element plan, or when more than one grant is being proposed, the applicant shall provide a description of and schedule for all past and future phases.

(3) The department shall review the application for completeness and may return the application with a request for more detailed information. The application is not considered complete until the additional information requested by the department has been received.

(4) The department shall receive planning project applications by February 1 and by August 1 of each year for a project to be eligible for grant awards in the subsequent 6-month period.

**NR 190.16 Determination of planning project eligibility.** (1) Following receipt of the application, the department shall make a determination of planning project eligibility. The department may accept the application and include the project in the priority list developed under s. NR 190.17, or deny the request for funding based on consideration of the factors identified in s. 281.68 (1), (1r), or (3), Stats.

(2) The total state share of the cost of a planning project may not exceed \$10,000.

(3) The department shall state the basis for determination of ineligibility in writing to the affected management unit.

**NR 190.17 Priorities.** (1) The department shall prepare or update a planning project priority list by March 1 and September 1 of each year. Planning projects included in the planning project priority list shall be new applications received and accepted by the department under s. NR 190.15.

(2) Priorities shall be set on a statewide basis.

(3) Applications for lakes which meet the minimum boating access standards of s. NR 1.91(4) or where the department determines that existing facilities are sufficient to meet existing public demand for access, shall receive priority over lakes which do not meet these conditions.

(4) The department shall consider the following factors when developing a project priority list:

(a) The degree to which the project contributes toward a holistic set of alternatives to assist local decision-making or contributes to the formation of a strategy to enhance or maintain the quality of a lake ecosystem.

(b) The degree to which the planning project will enhance knowledge and understanding of a lake's fish, aquatic life and their habitats.

(c) The degrees to which the planning project will enhance knowledge and understanding of a lake's watershed conditions that affect or have potential to affect a lake's ecosystem.

(d) The degree, to which the proposed planning project enhances local understanding of the lake's water quality, potential uses and factors which affect a lake's water quality.

(e) The degree to which the project will likely result in significant improvement in the management of a lake or lakes and lake ecosystems.

(f) The availability of public access to, and public use of, the lake.

(g) The degree, to which the proposed planning project complements other lake management efforts, is supported by other affected management units and leverages other local community funds for the project.

(h) The importance of the information obtained from a planning project to the state as identified in its resource management plans.

(i) Whether the project is a first-time large-scale project for a lake.

**NR 190.18 Grant awards.** (1) The department shall issue grant awards based upon the planning project priority list developed under s. NR 190.17. Grant awards shall be made twice each year.

(2) The grant award may not exceed the state share of the estimated costs of the planning project as set out in the grant application.

(3) The state share of the planning project cost may not be greater than 75% of the eligible planning project costs.

(4) The local share of the planning project cost may not be less than 25% of the eligible planning project costs.

(5) The department shall withhold 25% of the state share for a final payment and shall withhold final payment until it has made a determination that the planning project and any required audits have been satisfactorily completed.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on August 16, 2000.

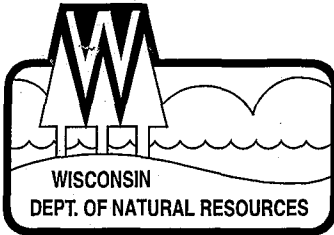
The rules shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin October 30, 2000.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By George E. Meyer  
George E. Meyer, Secretary

(SEAL)



**State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES**

Tommy G. Thompson, Governor  
George E. Meyer, Secretary

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October 30, 2000

Mr. Gary L. Poulson  
Assistant Revisor of Statutes  
131 West Wilson Street - Suite 800  
Madison, WI

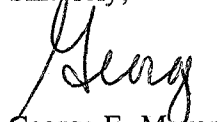


Dear Mr. Poulson:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. FH-17-00. These rules were reviewed by the Assembly Committee on Conservation and Land and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform pursuant to s. 227.19, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees are also enclosed.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,

  
George E. Meyer  
Secretary

Enc.