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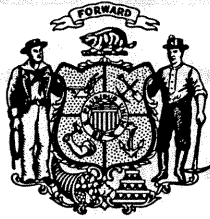
LCRC
FORM 2

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 00-076

AN ORDER to repeal and recreate chapter NR 190, relating to lake planning grants.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

04-11-00 RECEIVED BY LEGISLATIVE COUNCIL.

05-09-00 REPORT SENT TO AGENCY.

RNS:JES:rv;wu

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

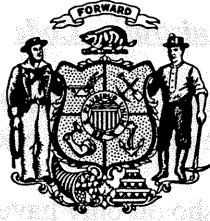
Comment Attached YES NO

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CLEARINGHOUSE RULE 00-076

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

1. Statutory Authority

a. The rule limits the lakes that may be the subject of a planning grant to public inland lakes. See ss. NR 190.002 and 190.003 (6). Section 281.68, Stats., which provides authority for the rule and is interpreted by the rule, does not appear to be limited to public inland lakes. The statutory basis for applying the grants only to public inland lakes in the rule is not apparent.

b. Section NR 190.003 (8) includes in the definition of "public inland lake" any lake which has been listed by the department as a public inland lake in the department's publication, Wisconsin Lakes, Pub. FM-800. To conform with the definition of a "rule" in s. 227.01 (13), Stats., the department should either promulgate this publication as a rule or reference a particular version of the publication within the definition of "public inland lake" in s. NR 190.003 (8). Otherwise, if the department revises this publication, the revision would have the effect of changing what constitutes an eligible public inland lake without going through the rule-making process.

c. Under s. NR 190.03, specified school districts may apply for a small-scale project. Section 281.68 (3) (a), Stats., identifies the entities that are eligible recipients for a lake management planning grant. The eligible recipients include "other local governmental units, as defined in s. 66.299 (1) (a), that are established for the purpose of lake management." A school district is an "other local governmental unit, as defined in s. 66.299 (1) (a)" but is not established for the purpose of lake management. The cosponsorship requirement for a school district to

become an eligible applicant under s. NR 190.03 does not convert a school district into an eligible recipient.

2. Form, Style and Placement in Administrative Code

a. The titles in the table of contents to ch. NR 190 should be consistent with the titles in the text of the rule. For example, see the titles for ss. NR 190.004, 190.06 and 190.16.

b. The section titles in the rule should only have an initial capital letter. [See s. 1.05 (2) (b), Manual.]

c. If a rule defines a term, the rule should use the defined term consistently throughout the text of the rule. For example, "activities" in ss. NR 190.04 (intro.) and 190.14 (intro.) should be replaced with the defined term "planning projects."

d. The department should review the entire rule and, as appropriate, remove redundant or unnecessary terms or phrases. Examples of redundant or unnecessary terms or phrases include the following:

(1) The phrase "and whose bylaws, charters or incorporation papers reflect as a purpose of the organization the acquisition of property for conservation purposes" in s. NR 190.003 (5). This phrase is already included in the statutory definition of "nonprofit conservation organization" in s. 23.0955 (1), Stats.

(2) The phrase "but are not limited to" in s. NR 190.005 (1) (intro.) and (2) (intro.).

(3) The repeated phrase "when developing a project priority list" in ss. NR 190.07 (4) (intro.) and 190.17 (4) (intro.).

(4) The phrase "as defined in NR 190.003 (4)" in s. NR 190.13.

(5) The phrase ", as defined in this chapter" in s. NR 190.03.

e. Rules should be drafted in the active voice. [See 1.01 (1), Manual.] Examples of provisions that are not in the active voice include all three sentences in s. NR 190.004 (1) and ss. NR 190.15 (4) and 190.17 (1).

f. Section NR 190.14 should be restructured since sub. (9) does not follow from the (intro.). It is suggested that "(1)" be inserted before the (intro.), subs. (1) to (8) become pars. (a) to (h), and sub. (9) becomes sub. (2).

g. Mandatory duties should be denoted in a rule through the use of "shall"; an optional provision or discretionary authority should be denoted through the use of "may." Prohibition should be stated as "no person may . . ." or "a person may not . . ." In addition, "should," "will," "must" or "it is the responsibility of" should not be used to express mandatory or

permissive action. [See s. 1.01 (2), Manual.] This drafting style was not followed in ss. NR 190.16 (2) and 190.17 (1).

h. The rule should contain a treatment clause that indicates that the rule repeals and recreates ch. NR 190. This treatment clause should precede the chapter title.

i. Since s. NR 190.08 (6) relates to preferences given for grant renewals relating to lake trend monitoring, it appears that it would be more appropriately considered as a factor in setting priorities under s. NR 190.07 (4) rather than the awarding of grants under s. NR 190.08.

4. Adequacy of References to Related Statutes, Rules and Forms

a. The analysis accompanying the rule cites s. 281.68, Stats., as authorizing rule-making. This citation is unduly broad as it contains all the lake management planning grant statutes. The specific statute that establishes the duty of the department to adopt rules, s. 281.68 (3), Stats., should be cited.

b. Section NR 190.004 (9) refers to “a grant awarded under this section.” This reference is in error as no grants are awarded under s. NR 190.004. Similarly, ss. NR 190.04 (intro.) and 190.14 (intro.) refer to “activities eligible for funding under this section,” but neither of these sections relate to the awarding of these funds. An alternative would be to reference funding under “this subchapter” in these provisions.

c. The rule references department forms for payment of claims and for applications for a grant. See ss. NR 190.004 (2), 190.05 (1) and 190.15 (1). The rule should include a reference to each of these forms in a note to the rule. The note should indicate where the form may be obtained. A copy of the form should be attached to the rule or a statement should be included stating where the form may be obtained at no charge. [See s. 1.09 (2), Manual.]

d. Under ss. NR 190.06 (1) and 190.16 (1), the department may deny the request for funding based on consideration of the factors identified in s. 281.68 (1) or (3), Stats. If the department also intends to deny the request for funding under s. 281.68 (1r) or (2), Stats., then the department should list these other statutory subsections in these provisions.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The reference to a “township” in ss. NR 190.002 and 190.003 (4) is inappropriate. A “township” is a unit of area used in land surveying. A “town” is one type of general purpose local government in Wisconsin.

b. What makes a nonprofit conservation organization “qualified” in s. NR 190.003 (4)?

c. The use of the term “tribe” in s. NR 190.003 (4) is vague. Since the awarding of a lake management planning grant to an Indian tribe is authorized under s. 20.002 (13), Stats., the reference should be to a “federally recognized Indian tribe.”

d. In s. NR 190.003 (8), the use of the phrase "or portion thereof" is not as direct and clear as defining a "public inland lake" to mean "part or all of a lake"

e. The department should review the entire rule to ensure that it is using the terms "applicant" for and "recipient" of a grant consistently and clearly. Other terms for an applicant or recipient, such as "sponsor" in s. NR 190.006, or "grantee" in s. NR 190.004 (1), should be avoided.

f. Since the use of the word "include" results in an open-ended list, the department should review its use of "include" throughout the rule to ensure that each provision is unambiguous. For example, the department should specify the complete list of eligible applicants in s. NR 190.03 rather than using a list with "includes."

g. In s. NR 190.03, the reference to a "qualified applicant as defined by s. 281.68 (3) (a)" implies that that statute contains a definition of "qualified applicant." Since the cited statute specifies a list of eligible recipients, a preferable word choice would be to substitute "identified in" for "as defined by." Also, "Stats." should follow the statutory cite.

h. In s. NR 190.17 (4) (i), "first time" should be hyphenated.

Report to
Legislative Council Rules Clearinghouse
NR 190, Wis. Adm. Code

0348 188 Natural Resources Board Order No. FH-17-00

Wisconsin Statutory Authority

ss. 281.68 and 227.11(2)(a), Stats., interpreting s. 281.68, Stats.

Federal Authority

N/A

Court Decisions Directly Relevant

None

Analysis of the Rule - Rule Effect - Reason for the Rule

In 10 years, over 500 lake planning grants have been awarded. As the program has grown and gained popularity, competition and a water quality focused statute and administrative code has made it difficult to respond to the diverse needs expressed by sponsors. Amendments to s. 281.68, Stats., in the biennial budget 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. However, the base allocation for funding these projects was not increased.

The main component of the proposed revision is the creation of two subcategories of grants to address the varying size and complexity of the state's lakes and the corresponding planning project needs. A subcategory of small-scale projects are proposed with a per project grant maximum of \$3,000. These will be used to obtain and disseminate basic lake information and develop management goals for smaller lakes and lakes in relatively good condition where a detailed plan is unwarranted. Schools will be allowed to co-sponsor small-scale grants with lake organizations. The \$3,000 cap will allow funding more grants with the same level of funding. This responds to many organization's comments that small cost-effective proposals did not compete well for grants in the past because of the current emphasis on larger more comprehensive projects.

The second subcategory of 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. Separate priorities are proposed for each subcategory so that small-scale projects do not compete against large-scale projects for funding.

In addition, several housekeeping items have been included to clarify policy and streamline the code.

Agency Procedures for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review.

Description of any Forms (attach copies if available)

None

Name and Telephone Number of Agency Liaisons

Carroll Schaal – Bureau of Fisheries Management and Habitat Protection – 261-6423
Charles Hammer, Bureau of Legal Services – 266-0911
Carol Turner, Bureau of Legal Services - 266-1959

Submitted on April 10, 2000

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
NR 190
Amendment No. if Applicable

FISCAL ESTIMATE
A-2048 N(R10/94)

Subject
Lake Planning Grants

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

- Increase Costs - May be possible to Absorb Within Agency's Budget Yes No
- Decrease Costs

Local: No local government costs

- | | | |
|--|--|--|
| 1. <input type="checkbox"/> Increase Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Government Units Affected:
<input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities
<input type="checkbox"/> Counties <input type="checkbox"/> WTCS Districts
<input type="checkbox"/> School Districts <input type="checkbox"/> Others |
|--|--|--|

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

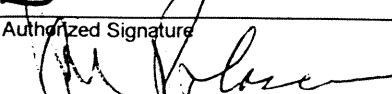
Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

SUMMARY OF RULE - Pursuant to statutory changes enacted in 1999 Wisconsin Act 9, this rule revision expands the list of eligible lake planning grant recipients and makes other minor housekeeping changes.

FISCAL IMPACT - None. Expanding the list of eligible grant recipients to include school districts and creating a sub-category of small-scale grants will allow the Department to award more grants. However, the Department does not expect staff workload to increase appreciably because the small-scale grants should take less time to process than their larger counterparts.

Long-Range Fiscal Implications

Agency	Prepared By	Phone No.	Authorized Signature	Phone No.	Date
DNR	Joe Polasek	(608) 266-2794		(608) 266-2794	02/24/2000

3

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

The Wisconsin Natural Resources Board proposes an order to repeal and recreate ch. 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^f, 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 smaller lakes and lakes in relatively good condition where a detailed plan is unwarranted. Schools will be allowed to co-sponsor small-scale grants with lake organizations. 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.

4 - Comments -
Jan 30, 1997 5 NR 190.003(2)

2- SECTION

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

no. see text

Subchapter II – Small-scale Projects

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

no

Subchapter III – Large-scale Projects

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

format

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 on the uses of lakes, the quality of water in lakes, 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.

5- use of
- 3- use of
- 1- use of
NR 190.002 **APPLICABILITY.** This chapter applies to all counties, cities, townships, 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, township, village, city, tribe, public inland lake protection and rehabilitation district, qualified 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., and whose bylaws, charter or incorporation papers reflect as a purpose of the organization the acquisition of property for conservation purposes.
- (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 a lake, reservoir or flowage, or millpond, or portion thereof, within the boundaries of the state that is presently accessible to the public by contiguous public lands or easements giving public access or which has been listed by the department as a public inland lake in Wisconsin Lakes, Pub. FM-800.

NR 190.004 **GENERAL PROVISIONS.** (1) Accounting for all planning project funds shall be in conformance with generally accepted accounting principles and practices, and shall be recorded by the grantee in a separate account. Supporting records of grant expenditures shall be maintained in sufficient detail to show that grant funds were used for the purpose for which the grant was 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 kept and made 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

5-point words
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agreement relative to expenditures being 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 which 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.

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

5 weeks
1/2/02

(9) A grant awarded under this section 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.

(10) 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 cost 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, but are not limited to:

S. J. Smith

(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 services 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.

2/ 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, but are not limited to:

(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 a sponsor 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 sponsor. 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 smaller lakes, and lakes where public awareness, fundamental information and enhanced organizational capacity are the primary management objectives. These will be protection-oriented, often volunteer-led efforts, to obtain and disseminate basic information about lake ecosystems that will be used to develop a foundation for lake management efforts.

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

NR 190.03 ELIGIBLE APPLICANTS. Eligible applicants for small-scale projects shall include all management units, as defined in this chapter and shall include school districts where the school district defines the benefit of the project to a lake or lakes and by signature agreement demonstrates a co-sponsorship with a qualified applicant as defined by s. 281.68(3)(a).

2-10-11
5-0-11
APPLICANTS

States

Authority school districts may not be legal recipients

Planning projects

4. Subsection

*amended
196.08*

NR 190.04 ELIGIBLE ACTIVITIES. Activities eligible for funding under this section

include:

(1) Lake trend monitoring projects. The collection and reporting of 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. Activities which will assist management units in collecting and disseminating existing information about lakes for the purpose of broadening the understanding of lake ecosystem conditions.

(3) Organization development projects. Activities which 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 section.

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: The DNR region headquarters are 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., Box 309, 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) Planning project applications shall be received by the department by February 1 and by August 1 of each year to be eligible for grant awards made twice each year under s. NR 190.08.

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) 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) A planning project priority list shall be prepared or updated by the department by March 1 and September 1 of each year. Planning projects to be included in the planning project priority list will be new applications that have been

2-7.1.10

No title

4-Ref to forms

received and accepted by the department under s. NR 190.05 and lake trend monitoring projects that will be renewed under s. NR 190.08(6).

(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) When developing a priority list, the department shall consider the following factors when developing a project priority list:

(a) The utility of the data and information being 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.

(6) Projects that provide for lake trend monitoring may be renewed on an annual basis subject to sponsor interest and the department's approval based on the quality and need of the information being collected.

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.

SR

Full grant

*US applicant
11/10/07
2-1 At
1/10/07 - on priority list*

S

*complete plan
US
1/10/07 - on priority list*

Limit to public... US state

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

NR 190.13 ELIGIBLE APPLICANTS. Eligible applicants shall include all management units (as defined in NR 190.003(4)).

NR 190.14 ELIGIBLE ACTIVITIES. Activities eligible for funding under this section include:

- (1) Acquisition of new or updated, physical, chemical and biological information within lakes or lake ecosystems.
- (2) Definition and mapping of lake watershed boundaries, sub-boundaries and drainage system components.
- (3) 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.
- (4) Assessments of water quality and of fish, aquatic life and their habitat.
- (5) 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.
- (6) 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.
- (7) The analysis, evaluation, reporting and dissemination of information obtained as part of the planning project.
- (8) The development of alternative management strategies, plans and specific project designs necessary to identify appropriate lake protection or improvement projects.
- (9) Activities in this section 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: The DNR region headquarters are 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 -- 810 W. Maple St., 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) Planning project applications shall be received by the department by February 1 of each year and by August 1 of each year to be eligible for grant awards made twice of each year under s. NR 190.18.

*S. 271.45
Projects
From some applicat
S. 271.45*

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) or (3), Stats.

(2) Only 2 applications per lake will be eligible for funding in one grant cycle.

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

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

Active

NR 190.17 PRIORITIES.

(1) A planning project priority list shall be prepared or updated by the department by March 1 and September 1 of each year. Planning projects to be included in the planning project priority list will be new applications that have been received and accepted by the department under s. NR 190.15.

*passive
+ include of
applications
not approved
level*

(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.

*g
f. 271.45*

(4) When developing a priority list, 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 degree 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 _____.

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 _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
George E. Meyer, Secretary

(SEAL)

OCT 09 2000

State of Wisconsin
Department of Natural Resources

**NOTICE TO PRESIDING OFFICERS
OF PROPOSED RULEMAKING**

Pursuant to s. 227.19, Stats., notice is hereby given that final draft rules are being submitted to the presiding officer of each house of the legislature. The rules being submitted are:

Natural Resources Board Order No. FH-17-00

Legislative Council Rules Clearinghouse Number 00-076

Subject of Rules Lake planning grants

Date of Transmittal to Presiding Officers September 6, 2000

Send a copy of any correspondence or notices pertaining to this rule to:

**Carol Turner, Rules Coordinator
DNR Bureau of Legal Services
LC/5, 101 South Webster**

266-1959

REPORT TO LEGISLATURE

NR 190, Wis. Adm. Code

Lake planning grants

Board Order No. FH-17-00

Clearinghouse Rule No. 00-076

Statement of Need

Amendments to s. 281.68, Stats., in the biennial budget expanded the scope of eligible grant activities. 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 are now included.

The proposed rule creates 2 subcategories of grants to address the varying size and complexity of the state's lakes and the corresponding planning project needs. The create of a subcategory of small-scale projects with a per project grant maximum of \$3,000 will increase overall participating in the lake grants program. Large scale projects 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. Separate priorities for each subcategory ensure that small-scale projects do not compete against large-scale projects for funding. In addition, several housekeeping changes were made to clarify policy and streamline the code.

Modifications as a Result of Public Hearings

The purpose statement of s. NR 190.01 was revised to include the word "education" to be consistent with the rule changes.

The rule was revised to remove reference to small lakes when referring to detailed plans and better articulates that small scale projects can also provide a way for organizations to ease into detailed planning, as well as update existing plans.

In response to a comment that application and reporting requirements should be appropriately scaled down for small-scale projects, the department is developing short forms for applying and reporting for some small-scale projects. The proposed rule added a statement that final report requirements may include the use of a standardized form rather than a written report.

Appearances at the Public Hearings and Their Position

May 18, 2000 – Waukesha – no appearances

May 23, 2000 – Spooner – no appearances

May 24, 2000 – Rhinelander

In support:

Ken Roesler, President, Long & Bass Lake Association, W1299 Long Lake Drive, Gleason, WI 54435
Bryan Pierce, Vilas County UW Extension, 330 Court Street, Eagle River, WI 54521
Tiffany Lyden, Vilas County Lake Conservation Specialist, 330 Court Street, Eagle River, WI 54521
Seth Wilner, 5550 Mohawk Shores Drive, Rhinelander, WI 54501
Bob Gilray, Seven Island Lake Association, 1702 Lenard Street, Wausau, WI 54401

In opposition:

Rand Atkinson, Aquatic Resources, Inc., N4546 Butternut Lane, Birnamwood, WI 54414

As interest may appear:

Roger Odden, Pickerel/Crane Lake Rehabilitation Assoc., W5821 Pine Pt. Road, Pickerel, WI 54465
Bob Heinrich, Pickerel Lake District, W1666 Bear Trail Road, Gleason, WI 54435
Dan Venezia, WLSL Radio, 321 Dahl, Apt. 2, Rhinelander, WI 54501
Curtis Powers, W3871 North Shore Lane, Tomahawk, WI 54487
Gerald Behnke, Tambling Lake Association, Inc., 1642 Tambling Lake Lane, Eagle River, WI 54521
Dick Nowak, Long & Bass Lake Assoc., W1295 Long Lake Drive, Gleason, WI 54435
Tom Neidlein, Director, Manson Lake Assn., 1977 Rambling Lane Drive, Rhinelander, WI 54501
Tim Marisch, Tambling Lake Assoc., 1646 Tambling Lane, Eagle River, WI 54521

Response to Legislative Council Rules Clearinghouse Report

In addition to comments on format, grammar, etc., which the Department accepted, the Clearinghouse raised two substantial comments on statutory authority that justify a response.

Comment: The statutory basis for limiting eligibility to inland lakes in the rule is not apparent. This is further limited by referencing the Wisconsin Lake booklet as a static source of eligible waters. If this is retained, a specific dated version of this booklet should be cited.

Response: The definition of public inland lakes is consistent with ch. 33, Stats. In reality, this only limits Lake Superior and Lake Michigan and portions of other border waters from eligibility. The department believes it is within its rulemaking authority to further limit projects due to the limited funding availability and the belief that planning and management of these large waters are, in most cases, beyond the scope of local government and nonprofit lake management organizations. However, there may be exceptions that can be addressed through the code's variance procedures. The reference to the Wisconsin Lakes booklet is removed.

Comment: School districts do not have lake management purposes and cannot be-eligible sponsors nor can eligibility be extended by co-sponsorship; with an eligible sponsor.

Response: The reference to schools as eligible sponsors is removed from the proposal. The department is seeking a change in legislation.

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 _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
George E. Meyer, Secretary

(SEAL)