



NR 128

State of Wisconsin

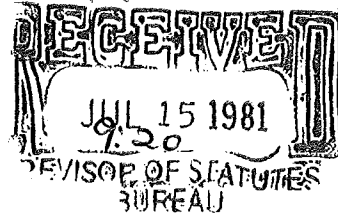
DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny  
Secretary

BOX 7921  
MADISON, WISCONSIN 53707

IN REPLY REFER TO: \_\_\_\_\_

STATE OF WISCONSIN )  
 )  
DEPARTMENT OF NATURAL RESOURCES ) ss



TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Carroll D. Besadny, 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. WQ-49-80 was duly approved and adopted by this Department on March 26, 1981. 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 General Executive Facility #2 in the City of Madison, this 13<sup>th</sup> day of July, 1981.

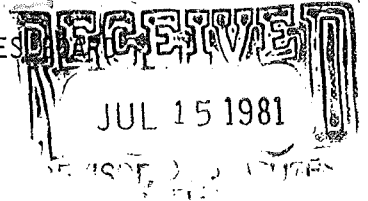
*Carroll D. Besadny*  
Carroll D. Besadny, Secretary

9-1-81

(SEAL)

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES

AMENDING AND CREATING RULES



.....  
IN THE MATTER OF amending sections NR 128.09(1)(a) .  
and (d), NR 128.12(9)(c) and (10) & NR 128.13(2)(f) .  
and creating section NR 128.26 of the Wisconsin .  
Administrative Code pertaining to state grant .  
assistance to municipalities for wastewater treat- .  
ment projects under the point source water pollution .  
abatement grant program .  
.....

WQ-49-80

Analysis Prepared by Department of Natural Resources

Section 144.24, Stats., authorizes state assistance to municipalities for the construction or rehabilitation of wastewater treatment plants and sanitary sewer systems under the point source water pollution abatement grant program -- the Wisconsin Fund.

The language revisions proposed are minor in scope, yet they provide for further improvements in Wisconsin Fund administration by ensuring the timely processing of grant payments and facilitating better grantee responsiveness to program requirements.

Language changes to section NR 128.09(1)(a) and (d) reduce the cyclical nature of the granting process by allowing the Department to authorize the bidding of construction contracts -- the ready to allocate notice -- through December 31.

The granting cycle has been such that ready to allocate notices are issued September 30. Applicant communities, limited by the 90-day statutory requirement, must concentrate bidding activities during the fall months in order to submit required documents to the Department by December 31. The current cycle operates on the assumption that optimal conditions exist. The concentration of bidding activity will be greatly reduced because of the extension of the granting cycle from 12 months to 15 months provided by the language changes.

The revisions to NR 128.12(9)(c) provide grantees with additional time needed to submit final Operation and Maintenance manuals without penalty of a hold on grant payments. Current requirements specify that no more than 50% of the grant share can be paid unless a draft manual has been submitted and no more than 67% until the Department has approved the operation and maintenance program including the final manual. The result of the present language is that grantees face undue hardship since an insufficient amount of time exists between the 50% and 67% progress points to finalize the manual. Payments over 50% are delayed pending submittal of the final manual despite construction costs incurred in the interim.

A similar hardship stems from present language in NR 128.13(2)(f) covering the timing of user charge system submittal and release of grant payment. The language changes to the section of the code on user charges are two-fold. First, a revision is proposed to facilitate timely grant payments by eliminating the requirement that grantees submit evidence of system development at the 50% completion point with Department approval and adoption of the system before more than 67% of the state share is released. The language proposed calls for Department approval of the user charge system at the 67% progress point with adoption of the system required before release of final payment.

A further revision better ensures that local residents are informed of the financial impacts of proposed user charge systems and are consulted before the system is adopted.

In addition, language has been created adding a new section to chapter NR 128 which provides the Department with the flexibility needed to consider deviations from certain nonstatutory requirements under special circumstances beyond the control of the grantee.

---

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by sections 144.24 and 227.014, Wisconsin Statutes, the State of Wisconsin Natural Resources Board hereby amends and creates rules interpreting section 144.24, Wisconsin Statutes, as follows:

SECTION 1 - Section NR 128.09 (1) (a) is amended to read:

(a) Between October 1 and December 31, each municipality intending to apply for a step 3 grant during the following year shall notify the department of its intent in writing. For those municipalities that notify the department by January 1, the department shall annually compile a funding list which ranks those municipalities in the same order as they appear on the federal project priority list. If there are not sufficient funds available under this section to fund all grant requests in that year, the department shall award available funds to projects in the order in which they appear on the funding list. The

department may provide a notice entitled a "ready to allocate notice" to municipalities which appear on the funding list and which fulfill the requirements of sub. (2)(a). The department may presume that a municipality which has not submitted complete plans and specifications for review by June 30 and a step 3 state grant application by July 31 will not be able to ~~complete-the-granting-process~~ receive a ready to allocate notice prior to ~~the end-of-the-year~~ December 31 and receive funding under this paragraph.

SECTION 2 - Section NR 128.09 (1) (d) is amended to read:

(d) ~~Both~~ As of January 1 of each year, both lists created under this section ~~in the prior year~~ expire entirely-upon-the-establishment-of-the-new annual-lists. The department may allocate funds to a municipality on the lists after the expiration of the lists if a municipality received a ready to allocate notice before the expiration of the lists and the requirements of sub. (2)(b) are met.

SECTION 3 - Section NR 128.12 (9) (c) is amended to read:

(c) The department ~~shall~~ may not pay: 1. ~~More-than-50%~~ Any of the state share of any step 3 activities unless the grantee has ~~furnished-either-a-draft of-the-operation-and-maintenance-manual-for-review-or-adequate-evidence-of timely-development-of-such-a-draft;-or~~ obtained department approval of a final plan of operation.

2. More than 67% of the state share unless the grantee has ~~obtained-from~~ furnished the department ~~approval-of~~ a draft systemwide operation and maintenance ~~program-including-an-operation-and-maintenance~~ manual that indicates satisfactory progress is being made towards a final operation and maintenance manual.

3. More than 90% of the state share of any step 3 activities unless the grantee has obtained from the department approval of the final operation and maintenance manual.

SECTION 4 - Section NR 128.12 (10) (a) and (b) are amended to read:

(a) The department shall may not pay;

~~1. More than 50% of the state share of any step 3 project unless the grantee has submitted adequate evidence of timely development of such a draft, or~~

~~2. 1. More~~ Pay more than 67% of the state share unless the user charge system has been approved by the department ~~and adopted by the municipality.~~

2. Make the final state grant payment until the user charge system approved by the department is adopted by the grantee pursuant to the requirements of section NR 128.13(2)(f).

(b) User charge systems shall comply with the requirements of section NR 128.13.

SECTION 5 - Section NR 128.13 (2) (f) is amended to read:

(f) Adoption of system. The user charge system must be incorporated in one or more municipal legislative enactments or other appropriate authority. If the project is a regional treatment works or part of a regional system accepting wastewaters from other municipalities, the subscribers receiving waste treatment services from the grantee shall have adopted user charge systems in accordance with this section. Such user charge systems shall also be incorporated in the appropriate municipal legislative enactments or other

appropriate authority of all municipalities contributing waste to the system. The municipality shall inform the public of the financial impact of the user charge system on them and shall consult with the public prior to adoption of the system. Prior to adoption of the system, the municipality shall notify the department in writing how the public was informed of the financial impact of the user charge system and how the public was consulted. Consultation must include at least one, but can include several, of the following activities with affected individuals and groups:

1. Public meetings
2. Public hearings
3. Review groups
4. Advisory groups
5. Ad hoc committees
6. Task forces
7. Workshops
8. Seminars
9. Informal personal communications

SECTION 6 - Section NR 128.26 is created to read:

NR 128.26 VARIANCES. (1) GENERAL. The natural resources board may approve variances from requirements of this chapter upon the recommendation of the Department secretary when it is determined that such variances are essential to effect necessary grant actions or department objectives where special circumstances make such variances in the best interest of the state.

Before granting variances, the board shall take into account such factors as good cause, circumstances beyond the control of the grantee, and financial hardship.

(2) APPLICABILITY. A grantee may request a variance from any nonstatutory requirement of this chapter.

(3) REQUEST FOR VARIANCE. A request for variance shall be submitted in writing to the director, office of intergovernmental programs, as far in advance as the situation will permit. Each request for a variance shall contain the following:

(a) The name of the applicant or the grantee, the grant number, and the dollar value;

(b) The section of this chapter from which a variance is sought;

(c) An adequate description of the variance and the circumstances in which it will be used, including any pertinent background information which is relevant to making a determination of justification; and

(d) A statement as to whether the same or a similar variance has been requested previously, and if so, circumstances of the previous request.

(4) APPROVAL OF VARIANCE. Variances may be approved only by the natural resources board. A copy of each such written approval shall be retained in the department grant file.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on March 26, 1981.

The rules contained herein shall take effect as provided in s.  
227.026(1)(intro.), Stats.

Dated at Madison, Wisconsin July 13, 1981

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny  
Carroll D. Besadny, Secretary

(SEAL)





State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

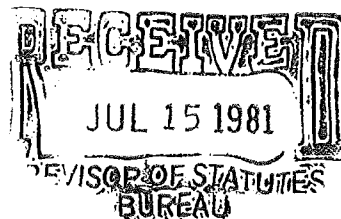
Carroll D. Besadny  
Secretary

July 10, 1981

BOX 7921  
MADISON, WISCONSIN 53707

IN REPLY REFER TO: 1020

Mr. Orlan L. Prestegard  
Revisor of Statutes  
411 West  
CAPITOL

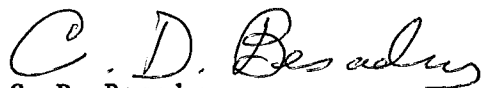


Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. WQ-49-80. These rules were reviewed by the Assembly Committee on Environmental Resources and the Senate Committee on Agriculture and Natural Resources pursuant to s. 227.018, Stats. There were no recommendations.

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

Sincerely,

  
C. D. Besadny  
Secretary

Enc.