



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

CR 88-149

RECEIVED

FEB 15 1989

2:10

Revisor of Statutes
Bureau

STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Bruce B. Braun, Deputy 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. CA-42-88 was duly approved and adopted by this Department on November 17, 1988. 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 here-
unto set my hand and affixed the
official seal of the Department at
the Natural Resources Building in
the City of Madison, this 13th
day of February, 1989.


Bruce B. Braun, Deputy Secretary

(SEAL)

5-1-89

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES
BOARD REPEALING, AMENDING AND CREATING RULES

.....
IN THE MATTER of repealing ss. NR 125.02 (3), 125.03 .
(2) (g), 125.05 (14) and (16) and 125.12(1); .
renumbering ss. NR 125.02 (1), (2) and (4), 125.03 .
(2) (h) to (k), 125.05 (15) and 125.09 (1); .
amending ss. NR 125.01, 125.03 (2) (b) and (c) and . CA-42-88
125.09 (2); repealing and recreating ss. NR 125.02 .
(5), 125.03 (1), 125.06, 125.07, 125.10 and 125.11 .
and creating ss. NR 125.02 (1) and 125.09 .
(1) of the Wisconsin Administrative Code pertaining .
to the program for State Grants for Water Pollution .
Control Facilities. .
.....

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 144.21(2) and 227.11(2)(a), Stats.
Statutes interpreted: s. 144.21, Stats.

Grants for small improvement projects for sewage treatment facilities are authorized under s. 144.21(6)(c), Stats. 1987 Wisconsin Act 399 amended the statute to include compliance maintenance planning as grant eligible from July 1, 1988 to June 30, 1990. During this period the department is directed to give first priority to payments being made under existing contracts, second priority for compliance maintenance planning projects and third priority for small improvement projects.

Revision of ch. NR 125 is needed to incorporate these statutory changes and to delete obsolete language relating to grants previously awarded for new sewage treatment plants and collection systems under s. 144.21(6)(a) and (b), Stats. The department's authority to award new grants under these provisions was repealed effective June 30, 1979.

The proposed revisions to NR 125 would do the following:

Create a definition of "small improvement project" eligible for funding under s. 144.21(6)(c)1., Stats. The proposed definition is modeled after the language of s. 144.21(6)(c)1., Stats., and sets a maximum project cost of \$100,000.

Create a definition of "compliance maintenance planning" eligible for funding under s. 144.21(6)(c)2., Stats.

Revise eligible projects to include only small improvement projects and compliance maintenance planning. Compliance maintenance planning is eligible only during the clean water initiative "transition period" -- or from July 1, 1988 until June 30, 1990.

Revise application requirements for small project and compliance maintenance planning grants. A municipality may submit an application only after the project is completed and paid for. The revised application contents are taken from the small project grant application checklist which is currently in use.

Revise priority criteria to conform with revisions to s. 144.21, Stats. The proposed rule creates three priority categories. The existing point system is maintained to determine ranking within each category. The priority tie breaker is changed from earliest date of plan submission to earliest date of application completion.

Revise the priority list schedule so only one list is compiled each year for applications received prior to April 1. Under current rules priority lists are compiled twice each year, in January and July. The revised closing date would give sufficient time for municipalities to complete compliance maintenance planning applications and is more consistent with an annual appropriation. If any funds remain after the priority list closing date, those funds would be available on a "first-come, first-served" basis until the end of the fiscal year. Applications not funded in one fiscal year due to a shortage of money may be considered for funding in the following fiscal year.

Revise grant award language to delete obsolete references to grants awarded under s. 144.23, Stats. Department authority to award new grants under this provision was taken away in 1978.

Incorporate the statutory maximum of 25% of eligible cost, or \$15,000, whichever is less.

Repeal limitation on funding from other sources.

Repeal NR 125.11 (3) which appears to conflict with priority procedures.

Simplify grant acceptance procedures.

Revise payment procedures to repeal interim grant payments. Currently, only final payments are processed since the projects are already completed and paid for at the time of application.

SECTION 1. NR 125.01 is amended to read:

NR 125.01 PURPOSE. The purpose of this chapter is to establish rules under s. 144.21, Stats., for the administration of state grants to municipalities for ~~the construction of~~ small improvement projects for sanitary

sewage treatment facilities and ~~sanitary sewage collection systems serving municipalities under s. 144.21 Stats.~~ for compliance maintenance planning.

SECTION 2. NR 125.02 (1) and (2) are renumbered 125.02 (2) and (4), respectively.

SECTION 3. NR 125.02 (1) is created to read:

NR 125.02 (1) "Compliance maintenance planning" means planning for a project which the department determines is necessary to prevent a municipality from significantly exceeding an effluent limitation, as defined in s. 147.015(6), Stats.

SECTION 4. NR 125.02 (3) is repealed.

SECTION 5. NR 125.02 (4) is renumbered 125.02 (3).

SECTION 6. NR 125.02 (5) is repealed and recreated to read:

NR 125.02 (5) "Small improvement project" means a project of less than \$100,000 total cost which improves the sewage treatment capability of an existing sewage treatment plant. Small improvement project includes, but is not limited to, disinfection, phosphate removal, state required testing and monitoring equipment and other improvements to sewage treatment capabilities. Small improvement project does not include administration, operation, maintenance or replacement in kind of equipment or facilities.

SECTION 7. NR 125.03 (1) is repealed and recreated to read:

NR 125.03 (1) ELIGIBLE PROJECTS. (a) The department may award grants to municipalities for small improvement projects for existing sewage treatment facilities.

(b) After June 30, 1988, and before July 1, 1990, the department may award grants to municipalities for compliance maintenance planning.

SECTION 8. NR 125.03 (2) (b) and (c) are amended to read:

NR 125.03 (2) (b) Projects to construct new sanitary sewers. to replace existing sewers or to increase the capacity of an existing sanitary sewer collection system.

(c) Construction of any part of a storm sewer system or storm water treatment facilities, ~~except where such construct co is eligible in accordance with sub. (1) (e).~~

SECTION 9. NR 125.03 (2) (g) is repealed.

SECTION 10. NR 125.03 (2) (h) to (k) are renumbered (g) to (j).

SECTION 11. NR 125.05 (14) is repealed.

SECTION 12. NR 125.05 (15) is renumbered to (14).

SECTION 13. NR 125.05 (16) is repealed.

SECTION 14. NR 125.06 and 125.07 are repealed and recreated to read:

NR 125.06 PRELIMINARY PROJECT EVALUATION. A municipality may request a preliminary determination of project eligibility prior to submitting a complete application to the department.

(1) A request for a preliminary project evaluation shall include a project description as required under s. NR 125.07(2), an itemized estimate of project costs, a proposed schedule for completion and other information requested by the department as needed to determine project eligibility.

(2) The department shall notify the municipality of the preliminary determination of eligibility.

(3) The department may not assign a priority rating under ss. NR 125.09 and 125.10 until after the complete grant application is received by the department.

NR 125.07 GRANT APPLICATIONS. To be considered for a grant award, a municipality shall submit an application to the department. A municipality may submit an application only after the project is completed and paid for by the municipality. An application shall be completed on forms provided by the department and shall include the following, as applicable:

(1) AUTHORIZING RESOLUTION. A certified copy of a resolution of the municipality's governing body authorizing the filing of the grant application by the municipality's authorized representative. The authorized representative shall be an official or employee of the municipality.

(2) PROJECT DESCRIPTION. A description of the construction or list of the equipment for which grant funding is requested. The description shall include an explanation of why the project was needed.

(3) STATE PLAN AND SPECIFICATIONS APPROVAL. A copy of the department letter approving plans and specifications for the project if plan approval is required under s. 144.04, Stats.

(4) STATE FACILITIES PLAN APPROVAL. For compliance maintenance planning projects, a copy of the department letter approving the facilities plan as required under ss. NR 110.08 and 110.09 and s. 144.04, Stats.

(5) BIDDING DOCUMENTS. For projects which require competitive bidding under ch. 59, 60, 61, 62 or 66, Stats.:

(a) A copy of the bid advertisement.

(b) A copy of the bid tabulation.

(c) A copy of the successful bid proposal.

(d) A copy of the resolution or meeting minutes of the municipality's governing body awarding the contract to the lowest responsible bidder or, if

the contract was not awarded to the lowest responsible bidder, justification for disqualification of the lowest bid.

(6) CONSTRUCTION CONTRACTS. A copy of any signed construction contracts and change orders relating to the project.

(7) MUNICIPAL LABOR OR MATERIAL COSTS. For a project which includes labor or materials provided by the municipality:

(a) A listing of the labor costs including the employee's name, work performed, dates worked, hours worked each day and wages paid.

(b) A listing of any materials or equipment provided by the municipality including a description of the item, size of unit, number of units, where used or installed, date installed and cost per item.

(8) ENGINEERING AND TECHNICAL SERVICES. A copy of the signed engineering contract or other basis for engineering costs and technical services.

(9) PROOF OF SATISFACTORY COMPLETION. (a) A statement signed by the municipal representative certifying that all claims, liens, disputes, etc., have been settled with contractors, engineers, property owners or other involved persons, or providing an explanation of any outstanding problems.

(b) A statement signed by the municipality and consulting engineer, as appropriate, certifying that the municipality has complied with all department conditions and that the project was completed in accordance with state approved plans and specifications.

(c) A description of any significant changes from the original approved plans and specifications.

(10) PROOF OF PAYMENT. (a) A statement signed by the municipal representative certifying that all costs in connection with the project have been paid.

(b) A listing of all payments to contractors and engineers when such payments are claimed as eligible costs. The list shall include the name of payee, date of payment, voucher number, and check number.

(c) A copy of invoices for all eligible costs.

(d) A copy of both sides of all cancelled checks used for payment.

(11) OPERATION AND MAINTENANCE. A written statement from the department district or area engineer certifying that the operation, maintenance, testing and reporting of the municipal wastewater treatment plant meets all state and federal requirements pertaining to the project.

(12) OTHER INFORMATION. Other information as requested by the department to determine the eligibility of a project or to determine the eligible costs.

(13) COMPLIANCE MAINTENANCE PROJECTS. Applications for compliance maintenance planning grants shall include documents required under sub. (1), (2), (4), (7), (8), (9)(a), (10) and (12).

SECTION 15. NR 125.09 (1) is renumbered NR 125.09(3).

SECTION 16. NR 125.09 (1) is created to read:

NR 125.09 (1) PRIORITY CATEGORIES. After June 30, 1988 and before July 1, 1990 the department shall give priority for available funding as follows:

(a) The department shall give first priority to funding annual payments to municipalities required under s. 144.21(8), Stats.

(b) The department shall give second priority to funding applications for compliance maintenance planning.

(c) The department shall give third priority to funding applications for small improvement projects.

SECTION 17. NR 125.09 (2) is amended to read:

NR 125.09 (2) PRIORITY WITHIN CATEGORIES. Priority within each category shall be determined by the point rating system under sub. (3). Projects shall be rated for priority for grants in descending order of the sum of the points ~~(maximum possible points: 30)~~. In case of a tie in the ~~priority ranking~~ point rating, the ~~project with final detailed approvable construction plans completed application received by the department~~ at the earlier date shall be given the higher ~~rating~~ priority.

SECTION 18. NR 125.10 and 125.11 are repealed and recreated to read:

NR 125.10 PRIORITY LIST, CLOSING DATE. The department shall determine the amount of money needed to fund complete applications received by the department prior to April 1 of each year.

(1) If the amount of money available for grants is not sufficient to fully fund all applications, the department shall determine the priority rating of each application in accordance with s. NR 125.09. The department shall award grants for projects with the highest priority ratings until available funds are depleted.

(2) If the amount of money available for grants is sufficient, a priority list will not be compiled. The department shall award grants for all eligible applications received prior to April 1. The department may award any surplus funds which would otherwise lapse at the end of the state fiscal year on a first-come, first-served basis for applications received on or after April 1.

(3) Applications which are not funded in one fiscal year due to shortage of funds may be considered for funding in the following fiscal year.

NR 125.11 GRANT AWARDS. (1) A grant awarded under this chapter shall be made on forms prepared by the department. The award shall be signed by the authorized representative of the department and shall list the conditions to which the award is subject.

(2) A grant may not be awarded for any project unless the project meets all department requirements and has priority for available funds under ss. NR 125.09 and 125.10.

(3) A grant award may not exceed 25% of the eligible cost, or \$15,000, whichever is less.

(4) The authorized representative of the municipality shall accept the grant award by signing the award document and returning it to the department. The department may terminate a grant award if the award is not accepted within 45 days of the date of issuance by the department.

SECTION 19. NR 125.12 (1) is repealed.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on November 17, 1988.

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

February 13, 1989

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny
Carroll D. Besadny, Secretary

(SEAL)

PC34
8908\ca9nr125.cjt
10/24/88



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

1020

February 13, 1989

Mr. Orlan L. Prestegard
Revisor of Statutes
Suite 702
30 W. Mifflin Street

Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. CA-42-88. These rules were reviewed by the Assembly Committee on Environmental Resources and Utilities and the Senate Committee on Urban Affairs, Environmental Resources, Utilities and Elections pursuant to s. 227.19, Stats. A summary of the final regulatory flexibility analysis and comments of the legislative review committees is also enclosed.

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

Sincerely,

A handwritten signature in black ink that reads "C. D. Besadny".

C. D. Besadny
Secretary

Enc.