

NR 128



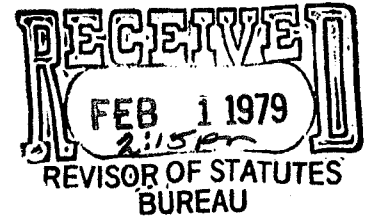
State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Anthony S. Earl  
Secretary

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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, Anthony S. Earl, 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-36-78 was duly approved and adopted by this Department on October 26, 1978. 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 Pyare Square Building in the Village of Shorewood Hills, this 4<sup>TH</sup> day of January, 1979.

*Anthony S. Earl*  
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Anthony S. Earl, Secretary

(SEAL)

STATE OF WISCONSIN NATURAL RESOURCES BOARD

.....  
IN THE MATTER of the creation of .  
section NR 128.30 of the Wisconsin .  
Administrative Code pertaining .  
to individual septic systems- . WQ-36-78  
rehabilitation and replacement .  
grant program .  
.....

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD

CREATING RULES

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 creates rules as follows:

Section 1 - Section NR 128.30 is created to read:

NR 128.30 State grants for the replacement or rehabilitation of individual septic systems. (1) Purpose. The purpose of this section is to establish rules under s. 144.24(10), Stats., for the implementation and administration of a financial assistance program to replace or rehabilitate septic or other on-site systems under enforcement orders.

Note: These eligibilities are separate apart from those identified in NR 128.07 and constitute a separate process.

(2) Definitions. The following definitions apply to this section.

(a) "Individual septic system" means a privately owned domestic wastewater treatment and disposal system or portion of an individual system serving a principal residence or small commercial establishment. In order to constitute an "individual septic system", a system cannot discharge to surface waters or be connected to any conventional municipal treatment works. Normally, an individual septic system is an on-site system with localized treatment and disposal of wastewater with minimal or no conveyance

of untreated wastewater. Limited conveyance of treated or partially treated effluents to further treatment or disposal sites can be a function of individual systems where it is cost-effective.

(b) "Principal residence" means a residence which is occupied at least 51% of the year by an individual, family or household. Second homes, vacation or recreation residences are not considered to be "principal residences".

(c) "Small commercial establishments" means commercial establishments or business places which have wastewater flows which total less than 300 gallons per day.

(d) "Public body" means sanitary district, town, village, city or county.

(3) Limitations on award. Before awarding grant assistance for any project for an individual septic system the department shall determine;

(a) That the project has been entitled to priority in accordance with sub. (7) below.

(b) That the public body applying for the grant has:

1. Certified that the project will be completed as planned and that the non-state project costs will be paid; and

2. The legal, institutional, managerial, and financial capability to insure adequate installation, operation, maintenance and inspection of the systems.

(c) That the necessary permits and plan approvals have been obtained;

(d) That the requirements of the Wisconsin environmental policy act, s. 1.11, Stats., have been met;

(e) That public ownership of the proposed project is infeasible;

and

(f) That all requirements of sub. (6) of this section have been met.

(4) Eligible systems. Individual septic systems to replace or rehabilitate existing systems are eligible for grant assistance if they meet the following conditions:

(a) The individual septic system will serve one or more principal residence or small commercial establishment constructed prior to and inhabited on July 1, 1978.

(b) The individual septic system will replace or rehabilitate an existing system under enforcement orders under ss. 144.025(2)(d) or 145.02(3)(f), Stats.

(c) The principal residence or small commercial establishment which will be served by the individual septic system has not received a previous grant under s. 144.24(10), Stats.

(5) Eligible and ineligible costs. The following cost eligibility criteria shall apply to individual septic systems applying for grants under s. 144.24(10), Stats.

(a) Acquisition of land on which the individual system treatment works are located is not grant eligible.

(b) Commodes, sinks, tubs, drains and other wastewater generating fixtures, associated plumbing and modifications to homes or commercial establishments are not grant eligible.

(c) Only reasonable costs of construction site restoration to preconstruction conditions are eligible; however, costs of improvement or decoration occasioned by the installation of individual system are not grant eligible.

(d) Conveyance pipes from wastewater generating fixtures to the treatment unit connection flange or joint are not eligible where the conveyance pipes are located on private property.

(e) Small sewage treatment plants with surface discharges are not grant eligible.

(6) Grant application. (a) A public body shall apply for grants for the replacement or rehabilitation of private systems aided under this program.

(b) Preapplication assistance should be requested from the department for each project.

(c) Applications must be received by the department no later than January 1 of any year for consideration in that fiscal year.

(d) An application for a grant to replace or rehabilitate individual septic systems shall include:

1. Certification by the applicant public body that the grant monies provided will be used to replace or rehabilitate individual septic systems serving one or more principal residence or small commercial establishment constructed prior to and inhabited on July 1, 1978;

2. A certification by the applicant public body that public ownership is not feasible;

3. Documentation that enforcement orders under subs. 144.025(2)(d) or 145.02(3)(f), Stats., have been issued against the systems to be replaced or rehabilitated.

4. The right (such as that granted by an easement or other covenant running with the land) of reasonable access by the agents of the department, and the grantee to each individual septic system at or for such purposes as construction inspection and monitoring, operation and maintenance.

5. For a system serving more than one principal residence or small commercial establishment, an assurance, (such as by deed restriction or other covenant running with the property) that the system is and will continue to be owned jointly by the owners of the properties served,

6. A statement assuring availability of the proposed site, if relevant;

7. Copies of the certified soil tester's report and the plans and specifications for each system which is to be replaced or rehabilitated;

8. Evidence that all applicable approvals and permits required by local governments, state and federal agencies have been obtained;

9. A description of the nature and scope of the proposed project, including a schedule for the completion of specific tasks;

10. An itemized description of the estimated costs for the project;

11. Proposed subagreements, or an explanation of the intended method of awarding subagreements for performance of any substantial portion of the project work;

12. Certification by the applicant that the grants will be used for individual septic systems that will be properly installed, operated and maintained;

13. Documentation of an approvable regulatory program which will insure proper installation, operation and maintenance of individual systems in the jurisdiction. The program shall include, at a minimum:

a. Procedures to assure that new septic systems are properly permitted, sited, designed and installed, pursuant to chapter 258, laws of 1977 and section H62.20, Wis. Adm. Code.

b. A maintenance program and schedule which includes periodic pumping (where necessary) of septic and holding tanks as required by sections H62.20(7) and H62.20(9), Wis. Adm. Code.

c. An inspection and monitoring program, which includes at least one inspection during installation of a system, regular inspections thereafter, and enforcement actions when replacement, rehabilitation or abatement is necessary pursuant to s. 146.14, Stats.

d. A central record keeping system.

e. Where appropriate, a user charge system which assures that each recipient of service under this program will pay its proportionate share of the costs.

(7) Priority ranking system. (a) The following factors will determine the funding priority for state grant assistance under s. 144.24(10), Stats:

1. All individual septic system grants within a project area proposed by an applicant public body and approved by the department, will be considered as a single project for priority purposes.

2. Pollution severity score. a. Projects in areas with an existing septic system failure rate of 30% or more shall be assigned 10 points.

b. Projects in areas with an existing septic system failure rate between 15% and 30% shall be assigned 5 points.

3. Cluster Score. If over 50% of the septic systems failing in a project area will be corrected by a jointly owned cluster system serving 5 or more existing systems the project will be assigned 5 points.

4. Health or pollution hazard score. In determining the health or pollution hazard score for a project, points may be assigned according to one of the categories below.

a. Projects to alleviate documented contamination of groundwater used for water supply shall be assigned 10 points.

b. Projects to eliminate ponding of effluent on the ground surface, sewage back-ups or direct piped discharge of effluent from 20 or more systems shall be assigned 8 points.

c. Projects to eliminate ponding of effluent on the ground surface, sewage back-ups or direct piped discharge of effluent from less than 20 septic systems shall be assigned 4 points.

(b) In case 2 or more projects have the same priority value, the project serving the larger population will be considered to have a higher priority.

(c) If a factor enumerated in this subsection is not properly assignable to a project, then the project shall be assigned a score of zero for that factor.

(d) In cases where it is determined that the most cost-effective solution for an area includes the combination of an individual septic system project and a public sewerage system project approved under chapter NR 110. Wis. Adm. Code, the applicant public body will be eligible to receive individual septic system grants under this subchapter at the same time as it begins construction of its public sewerage system project.

(e) The project priority list shall be revised annually by the department.

(8) State share. The state grant share under this subsection for any individual septic system and the cost of its installation shall be limited to \$3,000 or 60% of the total project cost, whichever is less. The total public body or principal owner or small commercial establishment owner share shall not be less than 25% of the total costs of the project.

(9) Payments. (a) Grant payments shall be made to the public body applying for a grant. The public body shall be responsible for disbursing all funds received from the department for purposes for which application was made.



(b) The grantee shall be paid the state share of eligible project costs incurred within the scope of an approved project and which are currently due and payable by the grantee (but not including withheld or deferred amounts).

(c) The grantee may submit requests for payments for eligible costs in accordance with a negotiated payment schedule included in the grant agreement. Upon receipt of a request for payment, the department shall cause to be disbursed from available funds such amounts as are necessary. The total amount of necessary state payments to the grantee for the project should be equal to the state share of the actual or estimated eligible project costs incurred to date, as the grantee certified in its most recent request for payment.

(d) At any time before final payment under the grant, the department may cause any request(s) for payment to be reviewed or audited. Based on such review or audit any payment may be reduced for prior overpayment or increased for prior underpayment.

(e) The state share of any refunds, rebates, credits, or other amounts (including any interest) that accrue to or are received by the grantee for the project, and that are properly allocable to costs for which the grantee has been paid under a grant, must be paid to the state of Wisconsin.

(f) After approval of the request for payment, which the grantee designates as the "final payment request", and the grantee's compliance with all applicable requirements of this chapter and the grant agreement, the department shall pay to the grantee any balance of the state share of the eligible project cost which has not already been paid. The final payment request must be submitted by the grantee promptly after project

completion. Before final payment under the grant, the grantee must execute and deliver an assignment to the state of Wisconsin, of the state share of refunds, rebates, credits or other amounts (including any interest thereon) properly allocable to costs for which the grantee has been paid by the state under the grant. The grantee must also execute and deliver a release discharging the state of Wisconsin, its officers, agents, and employes from all liabilities, obligations, and claims arising out of the project work or under the grant, subject only to the exceptions specified in the release.

(g) It is department policy that full and prompt payment be made to the grantee for eligible project costs. The department may only authorize the withholding of a grant payment where it determines in writing that a grantee has failed to comply with project objectives, grant award conditions, or reporting requirements. Such withholding shall be limited to only that amount necessary to assure compliance.

(h) The department shall withhold payment to the extent of any indebtedness to the state of Wisconsin, unless it determines that collection of the indebtedness will impair accomplishment of the project objectives and that continuation of the project is in the best interest of the state of Wisconsin.

(10) General conditions. All grants and grantees, under this subsection, for individual septic system projects are governed, where applicable, by general administration requirements of this chapter.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on October 26, 1978.

The rules contained herein shall take effect upon publication.

Dated at Madison, Wisconsin

4 January 1979

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Anthony S. Earl  
Anthony S. Earl, Secretary

(SEAL)