

## Chapter NR 128

POINT SOURCE POLLUTION ABATEMENT  
GRANT PROGRAM

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**NR 128.01 Purpose.** The purpose of this chapter is to establish rules under s. 144.24, Stats., for the implementation and administration of a financial assistance program for the planning, design, engineering, and construction of point source pollution abatement facilities.

**History:** Cr. Register, December, 1978, No. 276, eff. 1-1-79.

**NR 128.02 Applicability and cross referencing.** This chapter shall apply to all applications for funding for planning, design and construction of point source pollution abatement facilities made pursuant to s. 144.24, Stats. Compliance with this chapter and all other applicable requirements identified herein is necessary for satisfying qualification requirements prior to grant assistance.

**History:** Cr. Register, December, 1978, No. 276, eff. 1-1-79.

**NR 128.03 Definitions.** For the purposes of this chapter:

(1) "Alternative wastewater treatment works" means a wastewater conveyance and/or treatment system other than a conventional system. This includes small diameter pressure and vacuum sewers and small diameter gravity sewers carrying partially or fully treated wastewater.

(2) "Approval" means the written approval of the department.

(3) "Approved areawide waste treatment management plan" means a plan or elements thereof developed pursuant to Section 208 of the Federal Water Pollution Control Act Amendments of 1972 as amended by the Clean Water Act Amendments of 1977 (33 USC 1251 et. seq.), and approved by the state of Wisconsin.

(4) "Combined sewer" means a sewer intended to serve as a sanitary sewer and a storm sewer, or as an industrial sewer and a storm sewer.

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(5) "Construction" means any one or more of the following activities: Preliminary planning to determine the feasibility of treatment works; engineering, architectural, legal, fiscal, or economic investigations or studies; surveys, designs, plans, working drawings, specifications, procedures or other necessary actions; erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works; or the inspection or supervision of any of the foregoing items. The phrase "initiation of construction," means:

(a) The approval of the plan of study for step 1 activities;

(b) The award of a step 2 grant for step 2 activities;

(c) Issuance of a notice to proceed under a construction contract for any segment of step 3 project work or, if notice to proceed is not required, execution of the construction contract for step 3 activities.

(6) "Conventional system" means a collection and treatment system consisting of minimum size gravity collector sewers normally with manholes, force mains, pumping and lift stations, and interceptors leading to a central treatment plant.

(7) "Department" means the department of natural resources.

(8) "Excessive infiltration/inflow" means the quantities of infiltration/inflow which can be economically eliminated from a sewer system by rehabilitation, as determined in a cost-effectiveness analysis that compares the costs for correcting the infiltration/inflow conditions to the total costs for transportation and treatment of the infiltration/inflow, subject to the provisions in NR 128.20.

(9) "Individual systems" means privately owned alternative wastewater treatment works (including dual waterless/graywater systems) serving one or more principal residences or small commercial establishments which are neither connected into nor a part of any conventional treatment works. In general, these are on-site systems 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 cost-effective.

(10) "Industrial user" means:

(a) Any nongovernmental, nonresidential user of a publicly owned treatment works which discharges more than the equivalent of 25,000 gallons per day (gpd) of sanitary wastes and which is identified in the Standard Industrial Classification Manual, 1972, United States Office of Management and Budget, as amended and supplemented as of October 1, 1978 under one of the following divisions:

*Division A. Agriculture, Forestry, and Fishing*

*Division B. Mining*

*Division D. Manufacturing*

*Division E. Transportation, Communications, Electric, Gas, and Sanitary Services*

*Division I. Services.*

1. In determining the amount of a user's discharge, domestic wastes or discharges from sanitary conveniences may be excluded.

construct privately owned treatment works serving one or more principal residences or small commercial establishments if the requirements of NR 128.08 (2) are met.

Note: These eligibilities are distinct and separate from septic system grants authorized by s. 144.24 (10), Stats.

(2) ADDITIONAL LIMITATIONS ON AWARDS FOR INDIVIDUAL SYSTEMS. In addition to those limitations set forth in NR 128.11 the grant applicant shall:

(a) Certify that the principal residence or small commercial establishment was constructed before December 27, 1977, and inhabited or in use on or before that date;

(b) Demonstrate in the facility plan that the solution chosen is cost-effective;

(c) Apply on behalf of a number of individual units located in the facility planning area;

(d) Certify that public ownership of such works is not feasible and list the reasons in support of such certification;

(e) Certify that such treatment works will be properly installed, operated and maintained and that the public body will be responsible for such actions;

(f) Certify that the project will be constructed, and an operation and maintenance program established to meet local, state and federal requirements, including those protecting present or potential underground potable water sources;

(g) Establish a system of user charges in accordance with NR 128.13;

(h) Obtain assurances (such as an easement or another covenant running with the land) of unlimited access to each individual system at all reasonable times for such purposes as inspection, monitoring, construction, maintenance, operation, rehabilitation and replacement. An option will satisfy this requirement if it can be exercised no later than the initiation of construction;

(i) Establish a comprehensive program for regulation and inspection of individual systems before department approval of the plans and specifications. Planning for this comprehensive program shall be completed as part of the facility plan. The program shall include as a minimum, periodic testing of water from existing potable water wells in the area. Where a substantial number of on-site systems exist, appropriate additional monitoring of the aquifer(s) shall be provided; and

(j) Comply with all other applicable limitations and conditions which publicly-owned treatment works projects funded under this chapter must meet.

(3) ELIGIBLE AND INELIGIBLE COSTS. (a) Acquisition of land in which the individual system treatment works are located is not grant eligible.

(b) Only the treatment and treatment residue disposal portions of toilets with composting tanks, oilflush mechanisms or similar in-house systems are grant eligible.

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

(d) Only reasonable costs of construction site restoration to preconstruction conditions are eligible. Costs of improvement or decoration created by the installation of individual systems are not eligible.

(e) 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.

History: Cr. Register, December, 1978, No. 278, eff. 1-1-79.

**NR 128.09 Distribution of grant funds.** (1) **GENERAL.** Grant funds distributed under this program will be allocated to those projects placed on the funding list or the supplemental funding list. Project sequence on these lists shall be the same as that of the federal project priority list established under 33 USC 1251 et. seq. The department shall not allocate funds to a municipality which can reasonably expect to receive an EPA grant within 12 months of the time that the department is ready to allocate funds.

(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 receive a ready to allocate notice prior to December 31 and receive funding under this paragraph.

(b) For those municipalities that may notify the department after January 1, but before April 1 of each year of their intent to apply for a grant under this section, the department shall compile a supplemental funding list as of April 1 of each year.

(c) If funding remains from the allocations under par. (a), the department shall allocate available remaining funding to projects on the supplemental funding list in the order in which they appear on the funding list compiled under par. (b).

(d) As of January 1 of each year, both lists created under this section in the prior year expire. 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.

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(2) ALLOCATION PROCEDURE. (a) The department may give notice that it is ready to allocate funds to a municipality on lists compiled under sub. (1) above upon the submittal of the following:

1. Approved current detailed plans and specifications;
2. Proof of acquisition of appropriate land and easements; and
3. A complete step 3 grant application.

(b) The department may allocate funds to a municipality on lists compiled under sub. (1) above if the municipality has submitted a bid tabulation to the department for review and concurrence within 3 months of the department's notice given under par. (a) above.

(c) Upon departmental concurrence with bid tabulations and grantee compliance with all applicable grant conditions and other provisions of this chapter the department shall give notice to the grantee to proceed with construction.

(3) REIMBURSEMENT. (a) *General.* To accelerate construction under this program to meet statutory treatment standards and water quality goals, the legislature provided for a system of reimbursement to allow early construction of treatment works in anticipation of legislative appropriation of funds according to the following procedures.

(b) *Eligibility.* 1. The reimbursement process shall be implemented in any fiscal year only when there are more eligible step 3 construction projects on the lists under sub. (1) above than are fundable with the legislatively appropriated funds under s. 20:370 (4) (b), Stats., for that fiscal year.

2. To be eligible for reimbursement, a municipality must meet the same planning, design criteria and application requirements as are established in this chapter for regular grant projects.

(c) *Reimbursement process.* 1. For those projects which are eligible for reimbursement funding, the department may enter into a reimbursement offer. All reimbursement offers shall be made on forms prepared by the department. The reimbursement offer shall be signed by the authorized administrator of the department and will set forth the terms and conditions of the offer. The terms and conditions shall specify that a reimbursement offer can be funded only upon the appropriation of funds by the legislature in a subsequent fiscal year. Only step 3 projects will be eligible for funding under reimbursement offers.

2. The reimbursement offer shall specify a grant share as a percentage of eligible costs.

3. The department shall convert a reimbursement offer to a grant contract within 45 days after the legislature appropriates funds sufficient to convert the reimbursement offer. Priority for conversion shall be in the same order as the sequence of community acceptance of reimbursement offers.

4. The state grant administration procedures for reimbursement shall follow the same processes as established in this chapter for regular grants.

History: Cr. Register, December, 1978, No. 276, eff. 1-1-79; emerg. am. (1) (a) and (d), eff. 4-20-81; am. (1) (a) and (d), Register, August, 1981, No. 308, eff. 9-1-81.

**NR 128.10 Grant application. (1) PROCEDURE.** An application must be submitted to the department for each proposed step 1, step 2, or step 3 project. Submissions required for subsequent related projects shall be provided in the form of amendments to the basic application. Each such submission must be complete (see NR 128.10 (2)). If any information required under sub. (2) below has been furnished with an earlier application, the applicant need only incorporate by reference and, if necessary revise such information utilizing the previous application.

**(2) CONTENTS OF APPLICATION. (a) Step 1 projects.** (Facilities plan and related elements) An application for a grant for a step 1 project shall include the following:

1. A plan of study presenting:
  - a. The proposed planning area;
  - b. An identification of the entity or entities that will be conducting the planning;
  - c. The nature and scope of the proposed step 1 project, including a schedule for the completion of specific tasks; and
  - d. An itemized description of the estimated costs for the project.
2. Proposed subagreements or an explanation of the intended method of awarding subagreements for performance of any substantial portion of the project work.
3. Required comments or approvals of appropriate state, local, and federal agencies.

**(b) Step 2 projects.** (Preparation of construction drawings and specifications) Before the award of a grant or grant amendment for a step 2 project, the applicant must furnish the following:

1. An approved facilities plan in accordance with NR 128.19. Where an EPA step 1 grant was awarded prior to September 30, 1978, the facilities planning requirements of ss. NR 110.09 (1) (b) 11., NR 110.09 (2) (l) and (m), Wis. Adm. Code, need not be met by the applicant. For projects where an EPA step 1 grant was awarded prior to June 26, 1978 the facilities planning requirements of NR 110.09 (2) (j) and NR 110.10 (2) need not be met by the applicant. Where an EPA step 1 grant was awarded prior to May 12, 1978 the planning requirements of NR 110.09 (2) (k) need not be met.
2. Satisfactory evidence of compliance with the user charge provisions of NR 128.11 (9);
3. A statement regarding availability of the proposed site;

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

5. Required comments or approvals of appropriate state, local, and federal agencies;

6. Proposed intermunicipal agreements necessary for the construction and operation of the proposed treatment works, for any treatment works serving two or more municipalities;

7. A schedule for initiation and completion of the project work including milestones; and

8. Satisfactory evidence of compliance with NR 128.20 (5) regarding a sewer use ordinance.



6. Provisions for laboratory testing and monitoring adequate to determine influent and effluent characteristics and removal efficiencies as specified in the terms and conditions of the WPDES permit for the facility; and

7. An operation and maintenance program for the sewer system.

(c) The department may not pay:

1. Any of the state share of any step 3 activities unless the grantee has obtained department approval of a final plan of operation.

2. More than 67% of the state share unless the grantee has furnished the department a draft systemwide 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.

(d) The department may seek recovery of some or all grant payments if the grantee does not continue to satisfactorily own, operate, and maintain the funded facilities for their anticipated design life. The criteria used to determine if the grantee is not satisfactorily operating and maintaining the facilities shall be the same as the criteria in s. NR 110.05 (2), Wis. Adm. Code. Recovery of funds shall be in accordance with s. NR 128.24 (8).

(10) SUBMISSION AND APPROVAL OF USER CHARGE SYSTEMS. The grantee shall obtain the department's approval of its system of user charges. (a) The department may not:

1. Pay more than 67% of the state share unless the user charge system has been approved by the department.

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 s. NR 128.13 (2) (f).

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

(11) FINAL INSPECTIONS. The grantee must notify the department of the completion of step 3 project construction. The department shall cause final inspection to be made within 60 days of the receipt of the notice. When the final inspection is completed and the department determines that the treatment works have been satisfactorily constructed in accordance with the grant agreement, the grantee may make a request for final payment under s. NR 128.18 (4).

(12) SEWER USE ORDINANCE AND EVALUATION/REHABILITATION PROGRAM. The grantee must obtain the approval of the department of its sewer use ordinance, under s. NR 128.20 (5). The department shall not pay more than 67% of the state share of any step 3 project unless it has approved the grantee's sewer use ordinance, and the grantee is complying with the sewer system evaluation and rehabilitation schedule incorporated in the grant agreement under s. NR 128.20 (5).

(13) **SEPTIC TANK HAULERS.** The grantee shall not prohibit the hauling and discharge of septage from septic tanks or holding tanks within the grantee's service area to the treatment facility. The grantee may regulate the time, rate, location and quality of such discharges. The disposal of septage at the treatment facility shall be subject to equitable user charges.

**History:** Cr. Register, December, 1978, No. 276, eff. 1-1-79; emerg. am. (9) (c) and (10) (a) and (b), eff. 4-20-81; am. (9) (c) and (10) (a) and (b), Register, August, 1981, No. 308, eff. 9-1-81.

**NR 128.13 Requirements for user charge systems.** Any user charge system adopted by a grantee to comply with s. 144.24 (8) (a) 3., Stats., shall comply with the requirements of this section.

**Note:** s. 144.24 (3) (a), Stats., requires: "Each municipality receiving state grant assistance under this section for the construction of a point source pollution abatement facility shall develop and adopt: 3. A system of equitable user charges . . . the user fee system shall be in compliance with Title II of the federal act and the rules promulgated under the federal act."

(1) **GENERAL.** The department may approve a user charge system which is based on the actual use of wastewater treatment services or which is based on estimates of actual use of wastewater treatment services. The user charge system must require that each user (or user class) pays its proportionate share of the operation and maintenance costs (including replacement costs) of treatment works within the grantee's service area which is based on the user's (or user classes') proportionate contribution to the total wastewater loading from all users (or user classes). To insure a proportional distribution of operation and maintenance costs to each user or user class, factors such as strength, volume, and delivery flow rate characteristics shall be utilized in determining the waste load contribution from each user or user class.

(2) **GENERAL REQUIREMENTS FOR USER CHARGE SYSTEMS.** Any user charge systems approvable under this section shall meet the following requirements:

(a) *Initial basis for operation and maintenance charges.* For the first year of operation, operation and maintenance charges shall be based upon past experience for existing treatment works or some other method that can be demonstrated to be appropriate to the level and type of services provided.

(b) *Biennial review of operation and maintenance charges.* The grantee shall review, not less often than every 2 years, the wastewater contribution of users and user classes, the total costs of operation and maintenance of the treatment works, and its approved user charge system. The grantee should revise the charges for users or user classes to accomplish the following:

1. Maintain the proportional distribution of operation and maintenance costs among users and user classes as required herein;

2. Generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the treatment works; and

3. Apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly.

(c) *Replacement fund.* All user charges specifically collected for replacement shall be deposited in a separate and distinct fund which shall be used exclusively for replacement as defined in NR 128.03 (18).

(d) *Toxic pollutants.* The user charge system shall provide that each user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the grantee's treatment works shall pay for such increased costs.

(e) *Charges for operation and maintenance for extraneous flows.* The user charge system shall provide that the costs of operation and maintenance for all flow not directly attributable to users (i.e., infiltration/inflow) be distributed among all users of the grantee's treatment works system based upon either of the following:

1. In the same manner that the user charge system distributes the costs of operation and maintenance among users (or user classes) for their actual use; or

2. Under a system which uses one or any combination of the following factors on a reasonable basis:

- a. Flow volume of the users;
- b. Land area of the users;
- c. Number of hookups or discharges to the users;

(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

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## 7. Workshops

## 8. Seminars

## 9. Informal personal communications

(g) *Notification.* Each user charge system must provide that each user be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.

(h) *Inconsistent agreements.* The grantee may have pre-existing agreements which address the reservation of capacity in the grantee's treatment works or the charges to be collected by the grantee in providing wastewater treatment services or reserving capacity. The user charge system shall take precedence over any terms or conditions of agreements or contracts between the grantee and users (including industrial users, special districts, other municipalities, or federal agencies or installations) which are inconsistent with the requirements of this section.

(3) **IMPLEMENTATION OF THE USER CHARGE SYSTEM.** (a) If a grantee's user charge system is approved, implementation of the approved system shall become a condition of the grant. The grantee shall be subject to the noncompliance provisions of NR 128.24.

(b) The grantee shall maintain such records as are necessary to document compliance with these regulations.

(c) The department may review, no more often than annually, a grantee's user charge system to assure that it continues to meet the requirements of this section.

*History:* Cr. Register, December, 1978, No. 276, eff. 1-1-79; emerg. am. (2) (f), eff. 4-20-81; am. (2) (f), Register, August, 1981, No. 308, eff. 9-1-81.

**NR 128.14 Procurement.** (1) **APPLICABILITY.** Procurement of architectural engineering services and construction contracts by grantees under all steps of grants for construction of treatment works shall be in accordance with state and local law.

*Note:* See ss. 61.54, 61.55, 62.15 and 66.29, Stats.

(2) **PROFITS.** Only fair and reasonable profits may be earned by contractors in subagreements under state construction grants. Profit included in a formally advertised, competitively bid, fixed price construction contract is presumed to be reasonable.

(3) **GRANTEE RESPONSIBILITY.** The grantee is responsible for the administration and successful completion of the project for which state grant assistance is awarded in accordance with sound business judgment and good administrative practice under state and local laws.

(4) **UTILIZATION OF SMALL AND MINORITY OWNED BUSINESSES.** The department shall monitor the utilization of small and minority owned businesses by all grantees. Efforts shall be made by grantees to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for subagreements and contracts to be performed utilizing state grant funds. Inadequate performance by grantees may subject grantees to the provisions of NR 128.24.

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(5) GENERAL REQUIREMENTS FOR SUBAGREEMENTS. Subagreements must:

(a) Be necessary for and directly related to the accomplishment of project work;

(b) Be in the form of a bilaterally executed written agreement except for purchases smaller than the amounts specified in applicable state statutes; and

(c) Be for monetary or in-kind consideration.

(6) SPECIFICATIONS. (a) *Nonrestrictive specifications.* 1. No specifications for bids or statement of work in connection with such works shall be written in such a manner as to contain proprietary, exclusionary or discriminatory requirements other than those based upon performance, unless;

a. Such requirements are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment; or

b. At least 2 brand names or trade names of comparable quality or utility are listed and are followed by the words "or equal".

2. The single base bid method of solicitation for equipment and parts for determination of a low responsive bidder may not be utilized.

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(3) **AUDIT.** (a) Preaward or interim audits may be performed on grant applications and awards.

(b) A final audit shall be conducted after the submission of the final payment request. The time of the final audit will be determined by the department and may be prior or subsequent to final settlement. Any settlement made prior to the final audit is subject to adjustment based on the audit. Grantees and subcontractors of grantees shall preserve and make their records available pursuant to s. NR 128.25 (2).

*History: Cr. Register, December, 1978, No. 276, eff. 1-1-79.*

**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 non-statutory 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.

*History: Emerg. cr. eff. 4-20-81; cr. Register, August, 1981, No. 308, eff. 9-1-81.*

**NR 128.30 State grants for individual septic tank replacement or rehabilitation.** (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 private sewage systems under enforcement orders.

**Note:** These eligibilities are separate and apart from those identified in NR 128.08 and constitute a separate process.

(2) **DEFINITIONS.** The following definitions apply to this section.

(a) "Department" means the department of natural resources.

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(b) A "failing private sewage system" is a private sewage system which causes or results in any of the following conditions:

1. The failure to accept sewage discharges which causes back up of sewage into the structure served by the private sewage system.
2. The discharge of sewage to the surface of the ground or to a drain tile.
3. The discharge of sewage to any waters of the state.
4. The introduction of sewage into zones of saturation which adversely affects the operation of a private sewage system.

(c) "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 "principal residences."

(d) "Private sewage system" means a sewage treatment and disposal system serving a principal residence or small commercial establishment with a septic tank and soil absorption field located on the same parcel of land as the structure. This term also means an alternative sewage system approved by the department of health and social services including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on different parcel of land than the structure. A private sewage system may be owned by a property owner or by a special purpose district. In order to constitute a "private sewage system," a system cannot be connected to any conventional municipal treatment works, or have municipal treatment facilities available to the property.

(e) "Small commercial establishments" means a commercial establishment or business place which has average total sewage flows of less than 2,100 gallons per day. However, the private sewage system for a small commercial establishment shall be designed for the maximum daily flow.

(3) LIMITATIONS ON AWARD. Before awarding grant assistance for any project for a private sewage system, the department shall determine;

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

(b) That all requirements of sub. (6) have been met.

(4) ELIGIBLE SYSTEMS. Private sewage systems which replace or rehabilitate existing systems are eligible for grant assistance if they meet the eligibility criteria set forth in s. 144.24 (10) (e), Stats.

(5) ELIGIBLE AND INELIGIBLE COSTS. The following cost eligibility criteria shall apply to applications for private sewage systems grants under s. 144.24 (10), Stats.

(a) Costs allowable in determining grant funding under this section may not exceed the costs of rehabilitating or replacing a private sewage system which would be necessary to allow the rehabilitated or replaced system to meet the minimum requirements of the state plumbing code under s. 145.13, Stats.

(b) Costs allowable in determining grant funding under this section may not exceed the costs of rehabilitating or replacing a private sewage system by the least costly methods.

(c) Acquisition of land on which the private sewage system is located is not grant eligible.

(d) Toilets, sinks, tubs, drains and other wastewater generating fixtures, associated plumbing and modifications to a principal residence or small commercial establishment are not grant eligible.

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

(f) 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.

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

(h) Replacement or rehabilitation work done before the enforcement order which makes the system eligible under s. 144.24 (10) (e) 1., Stats., was issued is not eligible.

(6) GRANT APPLICATION. (a) A county shall apply for grants for the replacement or rehabilitation of private sewage systems aided under this program on forms to be supplied by the department.

**Note:** Application forms may be obtained, at no charge, from the Bureau of Water Grants, Department of Natural Resources, Box 7921, Madison, Wisconsin 53707.

(b) Counties may request preapplication assistance including technical assistance from the department.