



CR 82-158

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

STATE OF WISCONSIN)
DEPARTMENT OF NATURAL RESOURCES) ss

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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. SW-29-82 was duly approved and adopted by this Department on September 22, 1982. 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 10th day of November, 1982.

Carroll D. Besadny
Carroll D. Besadny, Secretary

(SEAL)

2-1-83

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

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SW-29-82

.....
IN THE MATTER of repealing s. NR 186.07(1)(d) and (2)(a); .
renumbering ss. NR 186.03(3) through (5), (7) through .
(9), (10) through (13), (15) & (16), 186.07(2)(b) through .
(h) & (4), 186.10(3) & (4); renumbering and amending .
s. NR 186.03(6), (14), (16) & (17); amending ss. NR 186.01, .
186.03(1) & (2), 186.05, 186.06(1), (3)(Intro.) & (c), .
186.07(1)(a), (b) & (c), (2)(Intro.), (3)(Intro.) & (d), .
186.08(1), (3)(a) & (b), 186.09(1)(Intro.), (a), (b), (c), .
(d), (h), (k), (l) & (2)(a), 186.10(1), (2)(Intro.), .
(a) & (b) & (4); repealing and recreating s. NR .
186.07(3)(g)1. and 2.a. & b.; and creating ss. NR .
186.03(3), (11), (19) & (20), 186.06(4), 186.07(3)(j) & .
(4), 186.08(4), 186.09(4) and 186.10(3), (4)(c) & (5) of .
the Wisconsin Administrative Code pertaining to special .
study grants for resource recovery and sludge management .
project feasibility studies. .
.....

Analysis Prepared by Department of Natural Resources

The Wisconsin Fund - Solid Waste Management Grant Program was established in 1978 by ss. 144.781-144.784, Stats. Specific provisions for administering the program are set forth in ch. NR 186, Wis. Adm. Code.

The grant program was initially established to provide financial assistance to counties and regional planning commissions for preparing areawide solid waste management plans and to cities, towns, villages and counties to conduct specific solid waste disposal site feasibility studies. Chapter 374, Laws of 1981 has expanded the Wisconsin Fund grant program to include special study grants for resource recovery and sludge management project feasibility studies. As a result of Chapter 374, NR 186 has been revised to establish the necessary criteria for administering these special grants.

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by ss. 144.781 to 144.784 and 227.014, Stats., the State of Wisconsin Natural Resources Board hereby repeals, renumbers, renumbers and amends, amends, repeals and recreates, and creates rules interpreting ss. 144.781 to 144.784, Stats., as follows:

SECTION 1. NR 186.01 is amended to read:

NR 186.01 PURPOSE. The purpose of these rules is to implement the solid waste management grant program pursuant to ~~section 637 of chapter 418, laws of 1977~~ under ss. 144.781 to 144.784, Stats., (as affected by ~~chapter 374, laws of 1981~~) consistent with the ~~Resource Conservation and Recovery Act of 1976 (Public Law 94-580)~~ resource conservation and recovery act. Through this program, financial assistance will be available to counties and regional planning commissions for preparing areawide solid waste management plans and to cities, towns, villages, and counties ~~for performing adopted and approved areawide solid waste management plans~~ for conducting specific solid waste disposal site feasibility studies and special study projects consistent with previously adopted and approved areawide solid waste management plans.

SECTION 2. NR 186.03(1) and (2) are amended to read:

(1) "Applicant" means "site feasibility study applicant" or, "planning applicant" or "special study applicant".

(2) "Applicant for a specific solid waste disposal site feasibility grant" means a town, village, city, or county, or more than one town, village, city, or county acting jointly, which presents an application for funding a proposal to conduct a specific solid waste disposal site feasibility study which is consistent with a previously ~~developed~~ adopted, department-approved areawide solid waste management plan or an approved and adopted update.

SECTION 3. NR 186.03 (3) through (5) are renumbered NR 186.03 (4) through (6).

SECTION 4. NR 186.03 (3) is created to read:

(3) "Applicant for a specific solid waste special study project grant" means a town, village, city, or county, or more than one town, village, city, or county acting jointly, which presents an application for funding a proposal to conduct a specific solid waste special study project which is consistent with a previously adopted, department-approved areawide solid waste management plan or an approved and adopted update.

SECTION 5. NR 186.03(6) through (9) are renumbered NR 186.03(7) through (10) and NR 186.03(7) is amended to read:

(7) "Full state share" means the maximum state grant amounts authorized by statute. For planning applicants this is an amount equal to 50% of the total eligible cost of the plan, but ~~shall~~ may not exceed \$50,000. For site feasibility study applicants and special study applicants this is an amount equal to 25% of the total eligible cost of the study, but ~~shall~~ may not exceed \$50,000. The state share cannot reduce the applicant's share of the total project costs to less than 25% for either a plan or, site feasibility, study, or special study project.

SECTION 6. NR 186.03(10) through (16) are renumbered NR 186.03(12) through (18) and NR 186.03(16) and (18) are amended to read:

(16) "Specific solid waste disposal site feasibility study" means the study which describes the physical conditions of the proposed site including a description of the site's topography, soils, geology, ground and surface waters, and other features of the site and surrounding area. The study shall also include preliminary engineering design concepts including the proposed design capacity of the site and an indication of the quantities and characteristics of the wastes to be disposed of. Leachate treatment studies and public involvement programs related to the project may also be completed as part of the study.

(18) "Study Site feasibility study applicant" means "applicant for a specific solid waste disposal site feasibility grant."

SECTION 7. NR 186.03(11) is created to read:

(1) "Resource conservation and recovery act" means the federal resource conservation and recovery act, 42 USC 6901 to 6987, as amended on the effective date of this paragraph (1982).

SECTION 8. NR 186.03(17) is renumbered NR 186.03(21) and amended to read:

(21) "Total eligible cost" means the sum of all direct and department-approved indirect costs for the applicant as anticipated and specified at the time of application, but excludes costs for acquisition of or interest in land, site preparation, operation, abandonment, or preparation of a plan operation, or department review fees and any subsidies for the price of recovered resources. Direct costs include, but are not limited to salaries including (fringe benefits), mileage, costs related to site investigations for site feasibility study work including surveying, soils investigations, monitoring well installation, sample collection, and lab analysis fees, equipment usage, consultant's fees, printing and copying but ~~shall~~ may not include costs for purchase of capital items. Indirect Costs incurred during the grant period for participation in any hearing under ss. 227.064 or 144.44, Stats., are eligible costs. Test equipment and installation costs that may be required to perform special study project investigations and indirect costs ~~may be allowable to the extent of those previously approved by other state or federal agencies and~~ but must be separately agreed to in the grant agreement.

SECTION 9. NR 186.03(19) and (20) are created to read:

(19) "Special study project" means a sludge management or resource recovery project feasibility study developed to provide detailed project feasibility information for implementation of an approved and adopted areawide solid waste management plan or an approved and adopted update. Resource recovery project studies under this definition may include, but are not limited to incineration with energy recovery, methane gas recovery, source separation and composting studies and waste processing for the purpose of energy or materials recovery. Sludge management project studies may include, but are not limited to land spreading, incineration, land disposal, and composting studies. Special study projects may include, but not limited to demonstration scale pilot projects and system management studies relating to cost analysis and financing arrangements, market research and commitments, risk assessments, final design procurement and other work required prior to undertaking full scale project development.

(20) "Special study applicant" means an applicant for a specific sludge management or resource recovery feasibility study grant.

SECTION 10. NR 186.05 is amended to read:

NR 186.05 ~~GENERAL CONDITIONS~~ IMPACT OF OTHER PROGRAMS. Funds available ~~through the Resource Conservation and Recovery Act of 1976~~ under the resource conservation and recovery act shall be awarded according to the intent of ss. 144.781 to 144.784, Stats., and guidelines and regulations promulgated by the U.S. environmental protection agency and the department through the Resource Conservation and Recovery Act of 1976. ~~Nothing in this chapter shall influence, affect or modify department programs, priorities or procedures relating to compliance with applicable solid waste management regulations.~~ All available federal funding for areawide plans and, site feasibility studies, and special study projects from the Resource Conservation and Recovery Act of 1976 shall be utilized to supplement and increase the levels of funding available under this program. Nothing in this chapter shall influence, affect or modify department programs, priorities or procedures relating to compliance with applicable solid waste management regulations.

SECTION 11. NR 186.06(1) is amended to read:

(1) GENERAL. No grants may be distributed for areawide solid waste management plans ~~or, specific solid waste disposal site feasibility studies or specific special study projects~~ which have, as their primary goal, disposition of hazardous substances as defined under s. ~~144.30(10)~~ 144.01(4m), Stats., hazardous waste as defined under s. 144.61(5), Stats., ~~sludge~~; or source material as defined under s. 140.52(10), Stats., or by-product material or special nuclear material as defined under ss. 140.52(3) and (11), Stats. ~~Plan or study proposals including management of the above materials are not eligible for funding if the proposals will cost in excess of 20% more than an equivalent proposal addressing only fundable waste types.~~

SECTION 12. NR 186.06(3) (Intro.) and (c) are amended to read:

(3) DISPOSAL SITE FEASIBILITY STUDIES. To apply for a site feasibility study grant, the applicant shall satisfy the following minimum eligibility criteria:

(c) The applicant must intend to complete detailed investigations of potentially acceptable disposal sites on at least one site consistent with a department-approved areawide solid waste management plan.

SECTION 13. NR 186.06(4) is created to read:

(4) SPECIAL STUDY PROJECTS. To apply for a special study grant, the applicant shall satisfy the following minimum eligibility criteria:

(a) The applicant shall be a town, village, city or county or more than one town, village, city or county acting jointly.

(b) An areawide solid waste management plan or update for the study area shall have been approved by the department under ch. NR 185 and a resolution stating the entity's intent to implement the plan or update shall be passed by the county or regional planning commission or a group of counties or regional planning commissions for which the plan or update was prepared.

(c) The proposed special study project is recommended in a department-approved areawide solid waste management plan or an approved and adopted update, and the applicant must intend to implement the portion of the plan or update requiring the study if feasible.

SECTION 14. NR 186.07(1)(a), (b) and (c) are amended to read:

(a) Applications First grant cycle applications shall be submitted to the department after December 1, and on or before January 2 of the next year and. Based on the availability of funds, the department may administer a second grant cycle in which case applications shall be submitted to the department after June 1 and on or before July 2 of the same year. In either case, applications shall be made on forms supplied by the department. One copy of the application shall be sent to the appropriate regional planning commission for advisory comment consistent with their clearinghouse functions.

(b) The department shall decide the eligibility and the priority of plan or, site feasibility study or special study project grant applications and notify first grant cycle applicants in writing by April 1 and second grant cycle applicants in writing by September 1 of each year.

(c) Successful applicants shall notify the department in writing of award acceptance by April 21 or September 21 of the same year. Applicants who fail to do this shall be ineligible for the award and these grant funds shall be made available to other eligible applicants.

SECTION 15. NR 186.07(1)(d) and (2)(a) are repealed.

SECTION 16 NR 186.07(2)(Intro.) is amended to read:

(2) Areawide solid waste management plan applicants. Planning applicants shall show submit the following in writing:

SECTION 17. NR 186.07(2)(b) through (h) are renumbered 186.07(2)(a) through (g).

SECTION 18. NR 186.07(3)(Intro.) is amended to read:

(3) Specific solid waste disposal site feasibility study applicants. Study applicants shall show submit the following in writing:

SECTION 19. NR 186.07(3)(d) is amended to read:

(d) The methods proposed to conduct the specific disposal site feasibility study ~~---These shall be in accordance with administrative codes promulgated pursuant to chapter 377, laws of 1977~~ s. NR 180.13.

SECTION 20. NR 186.07(3)(g)1. and 2. a. and b. are repealed and recreated to read:

1. 'Land availability.' a. Prior to making a grant award, the site shall be owned by the grant applicant or an option or other legally enforceable agreement affecting the property shall be obtained that allows the grant applicant to complete the feasibility study and develop and operate a land disposal facility for the anticipated life of the site and the period of responsibility for long-term care if the facility is approved by the department.

b. If the site feasibility study grant application is filed for county forest land property, a statement must be provided by the county that:

1) The county would be willing to amend the 10 year county forest plan to accommodate a landfill or

2) The county would be willing to amend the county forest plan based on a withdrawal from county forest if a conditional use for interim management was not compatible with the 10-year forest plan.

2.a. The proposed site shall be located in an area identified as a "probable land disposal location" in a department-approved areawide solid waste management plan and based on a site inspection by the department, the site shall have the potential to meet all state solid waste management locational requirements and other environmental requirements at the department.

b. For all sites projecting a design capacity larger than 50,000 cubic yards, the applicant shall submit an "initial site report" as described in s. NR 180.13(5) and shall receive written department confirmation that the potential sites merit feasibility work. For smaller sites, a favorable written report based on an initial site inspection by the department may be considered adequate. Initial site report information may be submitted as a proposed update to the "probable land disposal location" section of the areawide solid waste management plan to change previously designated low potential or prohibitive areas to potentially acceptable sites.

SECTION 21. NR 186.07(3)(j) is created to read:

(j) Site feasibility study applicants shall provide a detailed written description of the process used in the selection of the proposed sites.

SECTION 22. NR 186.07(4) is renumbered 186.07(5).

SECTION 23. NR 186.07(4) is created to read:

(4) SPECIAL STUDY APPLICANTS. Special study applicants shall submit the following in writing:

(a) Documentation that a department-approved areawide solid waste management plan has been adopted by the county or regional planning commission or a group of counties or regional planning commissions for which the plan is intended.

(b) A letter of commitment from an official authorized to represent each entity shall be required if the special study grant application is submitted by more than one cooperating town, village, city, or county. At a minimum, this letter shall describe the extent of project involvement, responsibilities, and the financial commitment of each entity. This letter shall also state the entity's intent to cooperate in project implementation if the project requiring the study is feasible.

(c) Documentation that the proposed special study project is recommended in a department-approved areawide solid waste management plan or an approved and adopted update, and that the applicant intends to implement the portion of the plan requiring the study.

(d) A project description that includes the following:

1. A detailed statement of project scope and study objectives which defines the course of action to be pursued to achieve the stated goals. The project scope shall define the project in terms of work effort, personnel, time and money commitments required to complete the special study project.

2. A description of the public information, education, and involvement program to be utilized throughout the proposed special study project.

(e) A statement of the estimated total costs of conducting the special study with adequate documentation on how the costs were estimated.

(f) A timetable for special study project completion.

(g) Documentation that the special study project to be investigated meets the following criteria:

1. The proposed special study project site location has the potential to meet all state solid waste management locational requirements and other environmental requirements of the department.

2. A letter from the state historical preservation officer concerning the possibility of the site being an archeological or historical landmark or area.

(h) 1. All special study applicants shall submit one copy of the grant application to the areawide solid waste planning agency with jurisdiction over the applicant's area for comment on the relationship of the proposed project to the department-approved areawide solid waste management plan. The areawide planning agency may comment to the department within 30 days on the application. If the applicant for a special study project grant is the same agency that is responsible for the areawide solid waste management plan, the department shall determine whether the project is consistent with the areawide solid waste management plan.

2. An applicant for a grant for a special study project on resource recovery shall submit one copy of the grant application to the Wisconsin solid waste recycling authority. Within 30 days after submittal, the Wisconsin solid waste recycling authority may transmit its findings and recommendations to the department regarding the consistency of proposed study objectives with existing resource recovery plans, studies or projects.

3. An applicant for a grant for a special study project concerning sludge management shall submit one copy of the grant application to the appropriate water quality planning agency. Within 30 days after submittal this agency may transmit its findings and recommendations to the department regarding the consistency of proposed study objectives with existing water quality plans, studies, or projects.

(i) A commitment that no grant monies shall be used for any acquisition of land or interest in land, or any site preparation, operation, or abandonment, or for any subsidies for the price of recovered resources.

SECTION 24. NR 186.08(1) is amended to read:

(1) All applicants shall submit the completed areawide solid waste management plan or, site feasibility study or special study project report to the department for review and approval consistent with ~~chapters 377 and 418, laws of 1977~~ ch. 144, Stats., and rules adopted pursuant to these chapters under that chapter. A copy of ~~the~~ each plan shall also be sent to the appropriate regional planning commission or other planning agency for their comment as to whether the plan is in conflict with any plans adopted by the agency. For special studies pertaining to resource recovery, applicants shall also submit a copy of the special study project report to the Wisconsin solid waste recycling authority for comment.

SECTION 25. NR 186.08(3)(a) and (b) are amended to read:

(a) Identification of one or more sites that are feasible for development as a sanitary landfill and satisfactory completion of the detailed scope of work identified in the grant application.

(b) ~~information contained in the administrative codes promulgated pursuant to chapter 377, laws of 1977~~ Submittal of a completed site feasibility study report in accordance with ss. NR 180.13 and 180.14.
Department approval of feasibility reports is necessary for project implementation.

SECTION 26. NR 186.08(4) is created read:

(4) APPROVAL CRITERIA FOR SPECIAL STUDY PROJECTS. In evaluating the completed special study project, the department shall consider the following factors:

(a) Satisfactory completion of the detailed scope of work identified in the grant application.

(b) Documentation of a public information and education program indicating that citizens involvement has been taken into account in preparing the special project feasibility study.

(c) Description of potential impacts and identification of persons who may be adversely affected by project implementation.

(d) The special study's consistency with the department-approved solid waste management plan or department-approved update and the requirements of ch. 144, Stats.

SECTION 27. NR 186.09(1) (Intro.), (a), (b), (c), (d), (h), (k), and (l)1. and (2)(a) are amended to read:

(1) GENERAL CONSIDERATIONS. The following ~~criteria~~ conditions apply to both planning grants ~~and to,~~ site feasibility study grants, and to special study project grants:

(a) No awards made under this program chapter shall restrict or prevent agreements between grant recipients and private enterprise for construction, operation, or abandonment of solid wastes facilities, resource recovery, or sludge management facilities.

(b) The grant recipient's share of preparing ~~either the plan or,~~ site feasibility study shall, or special study project may not be less than 25% of the total eligible costs of the project.

(c) All available federal funding from under the Resource Conservation and Recovery Act of 1976 (Public Law 94-500) resource conservation and recovery act for areawide solid waste management planning and, disposal site feasibility studies and special study projects shall be utilized by the department to supplement and increase the levels of funding available for grants awarded under this program chapter to the maximum extent possible.

(d) The areawide planning chapter grant period and the site feasibility grant period shall be ~~the one year period~~ 18 months after the date of acceptance; ~~unless the.~~ Each special study project grant is valid for one year after the date of acceptance. The department ~~determines~~ may determine, on a case-by-case basis, that a time extension ~~for one additional year~~ is warranted. The length of such an extension will be determined by the department.

(h) After an applicant has accepted a grant offer, the department shall make available to the applicant 75% of the total amount of the grant. The remaining 25% of the total amount of the grant shall be paid to the applicant only if the final plan ~~or,~~ site feasibility study report or special study project report and final accounting of project expenditures have been approved, in writing, by the department.

(k) The grant applicant shall maintain appropriate records to document expenditures made during development of the plan ~~or,~~ site feasibility study or special study project. These records shall be made available to the department upon request.

(l)1. There has been no substantial performance of on the plan or, site feasibility study or special study project work by the grantee, without good cause;

(2)(a) The department may make grant payments to planning applicants which ~~provides~~ provide up to 50% of the estimated total eligible cost of the applicant's areawide solid waste management plan. The grant ~~shall~~ may not exceed \$50,000. ~~Any No~~ No planning grant recipient is ~~not~~ eligible to receive additional planning grants under this chapter; ~~however.~~ However, both a county and a regional planning commission may receive one planning grant for the same area under this section, provided that the plan objectives are substantially different.

SECTION 28. NR 186.09(4) is created to read:

(4) SPECIAL STUDY PROJECT GRANTS. The department may award a grant to a special study applicant which provides up to 25% of the total estimated cost of the special study project. The grant may not exceed \$50,000. An applicant may receive more than one special project grant under this chapter, provided that no more than one application is submitted for any one year.

SECTION 29. NR 186.10(1), (2)(Intro.) (a) and (b) are amended to read:

~~(1) Each-year-planning-applicants-shall-to~~ To the greatest extent possible, applications for areawide solid waste management planning grants shall receive first consideration in each grant cycle for approval and funding by the department. ~~Each-year-feasibility-study-applicants-shall-be-considered-for-funding-only~~ ~~after-the-department-has-completed-the-grant-award-process-for-planning-applicants.~~ To the greatest extent possible, applications for specific solid waste disposal site feasibility studies shall receive second consideration in each grant cycle for funding by the department. Applications for special study project grants shall receive third consideration in each grant cycle for funding by the department.

(2) Factors and scoring methods used by the department in developing funding priorities for individual plans ~~and, site feasibility~~ site feasibility studies are:

(a) Current disposal practices and their suitability for environmentally sound disposal. The score shall be a number equal to 100 minus the percentage of the applicant's population served by disposal sites within the county which are approved by the department after January 1, 1975 for coverage under the waste management fund, which are not classified as an open dump and which can provide disposal for 2 years from ~~each-year's~~ the grant application date.

(b) Waste generation volumes ~~and types of wastes in the area~~. The score shall be a number equal to 100 times the logarithm of the applicant's population divided by the logarithm of the population of the applicant with the largest population. The latest population projections provided by the department of administration will be used for this calculation.

SECTION 30. NR 186.10(3) and (4) is renumbered NR 186.10(4) and (5), and 186.10(4) as renumbered is amended to read:

(4) PRIORITY LIST. (a) Each year, after applications are received, the department shall rank applicants ~~in descending order~~. For each applicant, a point value from 0 to 100 will be calculated for each factor in ~~subr subs. (2) above and (3) and will be multiplied by the weighing values contained in par. pars. (b) below and (c).~~ Scores for each factor will be summed for the applicant and all applicants will then be ranked in descending order. This priority list will be used for grant awards. The department shall make the funding priority list available to all applicants.

(b) Weighing values for priority list factors for plans and site feasibility studies:

Factor	Weighing Value	
	Plans	<u>Site Feasibility Studies</u>
Current disposal	4	4
Waste generation	2	3
Existing planning	3	0
Alternate funding	1	1
Size of area	1	1

SECTION 31. NR 186.10(3) is created to read:

(3) Factors and scoring methods used by the department in developing funding priorities for special study projects are:

(a) Current disposal practices and their suitability for environmentally sound disposal. The score shall be a number equal to the percentage of the applicant's population served by disposal sites within the county which are approved for coverage under the waste management fund, which are not classified as an open dump and which can provide disposal for 2 years from the grant application date.

(b) Waste generation volumes. The score shall be a number equal to 100 times the logarithm of the applicant's population divided by the logarithm of the population of the applicant with the largest population. The latest population projections provided by the department of administration will be used for this calculation.

(c) Size of the area to be served. The score shall be a number equal to 100 times the applicant's area divided by the area of the applicant with the largest area.

SECTION 32. NR 186.10(4)(c) is created to read:

(c) Weighing values for priority list factors for special project studies.

Factor	Weighing Value
Current disposal	4
Waste generation	3
Size of area	1

SECTION 33. NR 186.10(5), as renumbered, is amended to read:

(5) The department will attempt to award all available monies during each year of the program. Should the amount of funds available be less than the total demand of all applications, the department will first make full share awards to planning applicants by descending priority list rank and, secondly to site feasibility study applicants by descending priority list rank and thirdly to special study project applicants by descending priority list rank. Applicants who do not receive funding for their project may apply in future program years.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on September 22, 1982.

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

Dated at Madison, Wisconsin November 10, 1982

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny
Carroll D. Besadny, Secretary

(SEAL)