

CR 89-77



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny, Secretary  
Box 7921  
Madison, Wisconsin 53707  
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STATE OF WISCONSIN )  
 )  
DEPARTMENT OF NATURAL RESOURCES )

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JAN 25 1990  
9:45 am  
Revisor of Statutes  
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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. AD-35-89 was duly approved and adopted by this Department on December 14, 1989. 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 23<sup>rd</sup>  
day of January, 1990.

  
Bruce B. Braun, Deputy Secretary

(SEAL)

4-1-90

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD  
CREATING RULES

IN THE MATTER of creating s. NR 1.98  
of the Wisconsin Administrative Code  
pertaining to research funding

AD-35-89

Analysis Prepared by Department of Natural Resources

Statutory authority: s. 227.11(2), Stats.  
Statute interpreted: s. 23.09(2)(k), Stats.

S. 23.09(2)(k), Stats., provides DNR authority to receive funds from public and private sources for research projects. NR 1.98 establishes the policies and procedures to be followed in soliciting and accepting such funds.

The rule 1) establishes the considerations which the Natural Resources Board should take into account when deciding whether to accept funds; 2) provides the mechanisms for public notice of and public input into the Natural Resources Board's decision; and, 3) assures compliance with the Department's statutory obligations and overall mission when accepting and using such funds.

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SECTION 1. NR 1.98 is created to read:

NR 1.98 PUBLIC AND PRIVATE SOURCE FUNDING OF RESEARCH. (1) PREAMBLE.

(a) It is the policy of the department of natural resources to seek the best, most current scientific information available on which to base its management and regulatory decisions. In keeping with this policy, the department operates a research program, through the bureau of research, which conducts and oversees research in natural resource management and environmental protection.

(b) It is the policy and statutory obligation of the department to make management and regulatory decisions to protect and enhance the natural resources of Wisconsin and the public's interests in and rights to those natural resources.

(c) It is the policy and statutory obligation of the department to conduct its actions in an open and publicly accessible manner to facilitate

public involvement, understanding and acceptance, and in accordance with the public records and open meeting laws of Wisconsin.

(d) It is the policy of the department to accept donations of land, money, time, equipment and human effort to support department programs under the authority provided in s. 23.09(2)(o), Stats., "to accept and administer gifts, grants, bequests, and devises".

(2) PURPOSE. To assure that the authority provided in s. 23.09(2)(k), Stats., is exercised in a manner consistent with the department's mission and policies and with applicable statutory obligations and ethical requirements, the department finds it appropriate to adopt these guidelines for the receipt of such public or private source funding.

(3) DEFINITIONS. (a) "Public or private source" means any organization, entity or individual outside of the department of natural resources, and includes public and private sector entities which are regulated, either directly or indirectly, by the department. This term does not include the department of natural resources, the Wisconsin state legislature, or the agencies of the federal government.

(b) "Public or private source funds" or "public or private source funding" or "funds from public or private sources" means anything of value, including money, time, land, equipment or human effort, which is offered to the department to support, in whole or in part, research efforts.

(c) "Anonymous funds" are those from an unidentified source. This term does not include funds from a private, non-profit foundation when the original source is unidentified.

(4) CRITERIA FOR CONSIDERATION OF PUBLIC OR PRIVATE SOURCE FUNDING. (a) The natural resources board may accept funds from public or private sources to support research needs in the department. These public or private source

funds may be specifically designated by the source to support a particular research project or subject area for research, or may be undesignated in which case the funds may be applied to research needs on a priority basis as determined by the department.

(b) The decision to accept public or private source funding shall be made by the natural resources board in public session with opportunity for public scrutiny and input in the following manner:

1. Public or private source funds which have a value of \$5000 or more shall be accepted only by the natural resources board.

2. Public or private source funds which have a value of less than \$5000 may be accepted by the secretary without the approval of the natural resources board. The secretary may bring any proposal with a value of less than \$5000 to the natural resources board for action if he or she deems it appropriate to do so. The provisions of pars. (c) and (d) apply to any funds accepted by the secretary.

(c) Before accepting an offer of public or private source funding, the natural resources board shall ensure that all of the following conditions have been met:

1. The research project to be supported is a high priority for the department and merits the expenditure of department time and resources.

2. The department, not the public or private source, will control the design and conduct of the study, the interpretation of the data and the write-up of the results. The department will be fully responsible for any decisions as to how, if at all, the research results will be used by the department.

3. No assurance has been given by the department to the public or private source about the content of the research results nor the regulatory application of those results.

4. The public or private source has not imposed any conditions on the offer of funds which would control the department's conduct of the research project or the research program, or commit the department to any particular action, including any particular exercise of discretion in its regulatory or management decisions or programs.

5. All research shall be conducted in a manner consistent with the requirements of the public records law.

6. The department has not agreed to assume any liability on behalf of the public or private source which the department would not otherwise be responsible for in the conduct of the research.

(d) The natural resources board may impose such other restrictions on the receipt of funds from a public or private source as it deems appropriate to comply with the intent of this policy. Such restrictions may include, but are not be limited to, restrictions on the amount of funds which shall be accepted from a given public or private source in a given period of time.

(e) Notwithstanding satisfaction of all the conditions in par. (c), the natural resources board may refuse the offer of public or private source funding for other reasons deemed pertinent by the board.

Note: For example, if the board believes that the fact of the public or private source funding will be so controversial as to render the research results challengeable it may refuse to accept the public or private source funding.

(f) The department shall keep records of all such public or private source funds so that they are available for audit at any time by the natural resources board or the public. The department shall prepare an annual report of all such funds. The report shall specify, at a minimum, the source of the funds, the total project cost, the amount per source if multiple sources of

funds, the entity which conducted the research, and a summary of the project. The department may include other information which it believes will facilitate full public disclosure.

(g) The department shall, to the extent possible, seek the advice and opinions of qualified reviewers in the design and implementation of its research projects.

(5) SOLICITATION OF PUBLIC OR PRIVATE SOURCE FUNDS. (a) The department may solicit funds from public or private sources to lend support to research efforts in the department.

(b) The secretary shall designate a person or persons to be responsible for such solicitation. Such person may not hold a position in any of the department's regulatory programs.

(c) Any funds solicited from public or private sources are subject to the provisions of sub. (4).

(6) FUNDS FROM ANONYMOUS SOURCES. Except for amounts deposited in gift boxes at state parks, the department may not accept anonymous funds.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on December 14, 1989.

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

January 23, 1990  
STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny  
Carroll D. Besadny, Secretary

(SEAL)



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

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January 25, 1990

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In reply refer to: 1020

Revisor of Statutes  
Bureau

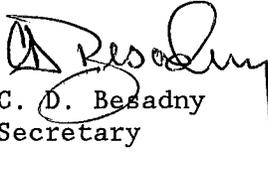
Mr. Gary Poulson  
Assistant Revisor of Statutes  
Suite 702  
30 W. Mifflin Street

Dear Mr. Poulson:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. AD-35-89. These rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Urban Affairs, Environmental Resources, Utilities and Elections pursuant to s. 227.19, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees are also enclosed.

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

Sincerely,

  
C. D. Besadny  
Secretary

Enc.