

Chapter NR 193

SURFACE WATER GRANT PROGRAM

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Subchapter I — General Provisions

NR 193.01 Purpose and authority. This chapter establishes procedures for awarding cost-sharing grants to public and private entities to protect and improve the waters of Wisconsin. Rules under this chapter outline grant programs supporting aquatic invasive species control and prevention as provided for in s. 23.22 (2) (c), Stats., lake management planning as provided for in s. 281.68, Stats., lake management and lake classification pursuant to s. 281.69, Stats., river planning and management as provided for in s. 281.70, Stats., and a lake monitoring and protection contract program pursuant to s. 281.68 (3) (bg), Stats.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20.

NR 193.02 Applicability. (1) This chapter outlines a grant program that provides financial assistance for surface water planning and management projects benefitting the waters of Wisconsin. Eligible grant recipients include counties, cities, towns, villages, and other local governmental units; tribal governing bodies; town sanitary districts; public inland lake protection and rehabilitation districts; nonprofit conservation organizations; qualified surface water management organizations; qualified school districts; accredited colleges; accredited universities and technical schools; qualified lake associations; qualified river management organizations; natural resource agencies; and other substantially similar organizations. Substantially similar organizations seeking eligibility for grants awarded under this chapter shall submit a request for a determination of eligibility on a form designated by the department.

(2) Grants awarded under this chapter may be used for education, planning and management projects conducted for the benefit of surface water or aquatic ecosystems. Lake protection funding is available for projects benefitting lakes and lake ecosystems.

Lake management grants that include natural resource enhancement services are available for projects benefitting public inland lakes. River protection funding is available for activities benefitting rivers and riverine ecosystems. Aquatic invasive species control funding is available for aquatic invasive species projects conducted on surface waters of the state, including lakes, rivers, streams, wetlands and the Great Lakes.

(3) These general provisions apply to grants awarded under this chapter. Subchapters VI and VII will use the general provisions contained in this subchapter, unless indicated otherwise in subchs. VI and VII.

Note: Applicants may wish to review the Surface Water Grant Program Guidance available on the Surface Water Grant Program website.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (3) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.03 Definitions. In this chapter:

(1) “Acquisition costs” means the fair market value of the property, as determined by department appraisal guidelines, and reasonable costs related to the purchase of the property limited to the costs of appraisals, legal fees associated with closing up to a maximum DNR cost share of \$1,000, costs of land surveys, title and gap insurance costs, title company closing costs, recording fees, costs of historical and cultural assessments required by the department, costs of environmental inspections, audit costs, and baseline documentation costs required for conservation easements. “Acquisition costs” does not include environmental clean-up costs, brokerage fees paid by the buyer, real estate transfer taxes or any other costs not identified in this subsection.

(2) “Aquatic ecosystem” means a lake ecosystem or riverine ecosystem.

(3) “Aquatic invasive species” means organisms, eggs, larvae, seeds, fragments, propagules, and any other viable life stage

of a non-indigenous water or wetland-dwelling organism, including hybrids, cultivars, subspecific taxa, or genetically modified variants, whose introduction is likely to cause adverse economic, recreational, environmental or human health effects.

Note: Some aquatic invasive species are legally identified, classified, and regulated under ch. NR 40 and s. NR 109.07.

(4) "Aquatic invasive species control" means to remove, cut and remove, destroy, suppress, or otherwise prevent the introduction or spread of aquatic invasive species.

(5) "Aquatic life" means aquatic plants, aquatic algae, aquatic invertebrates, aquatic or semi-aquatic vertebrates, or other aquatic organisms or their habitats.

(6) "Capital asset" means a long-term item having a useful life of more than one year and an acquisition cost of \$5,000 or greater. "Capital asset" includes customized equipment where the sum of the components is equal to or in excess of \$5,000.

(7) "Conservation easement" has the meaning given in s. 700.40 (1) (a), Stats.

(8) "Cost containment" means the process of managing the expenses required to complete a project within pre-planned budgetary constraints.

(9) "Department" means the Wisconsin department of natural resources.

(10) "DNR cost share" means the percent of a project's total cost paid for with grant funds awarded under this chapter.

(11) "Enhancement" means activities conducted to increase one or more beneficial functional values or services of an aquatic ecosystem.

(12) "Equipment" means long-term items having a useful life of more than one year and an acquisition cost of less than \$5,000.

(13) "Final payment" means the last reimbursement issued by the department to the grantee for a grant awarded under this chapter after the project has been completed in accordance with the grant agreement and to the satisfaction of the department.

(14) "Grant advance" means the portion of the grant award paid to the grantee after returning a signed grant agreement and prior to project implementation.

(15) "Grant agreement" means a contract between the grantee and the department detailing the project scope, grant award, grant period, DNR cost share, project products, reimbursement process, and conditions that restrict actions of the grantee during the life of the project and during the operation and maintenance phase once the final payment has been issued by the department.

(16) "Grant award" means the dollar amount awarded to the grantee by the department and available to the grantee for reimbursement of eligible project costs.

(17) "Grantee" means an eligible organization or person that is awarded a grant or contract from the department under this chapter.

(18) "Grantee match" means the dollar amount of the eligible project cost not funded with a grant administered by the department.

(19) "Grant period" means the time period stated in the grant agreement during which the grantee may expend funds for the project.

(20) "Lake" means all or a portion of a lentic body of water, including lakes, ponds, millponds, pools, impoundments, reservoirs and flowages, that is within the boundaries of the state.

(21) "Lake ecosystem" means the lake and all streams, channels, wetlands, groundwater, and lands in the watershed and the terrestrial and aquatic life therein.

(22) "Littoral area" means the light-rich shallow-water zone of a lake extending from the ordinary high water mark to the greatest depth capable of supporting submersed aquatic plants.

(23) "Local governmental unit" has the meaning given in s. 66.0131 (1) (a), Stats.

(24) "Management plan" means a written document that explores management challenges and defines management goals and that provides strategic direction for selecting project activities to accomplish them.

Note: Examples of management goals include preventing pollution, protecting surface water quality, protecting the quality of aquatic ecosystems, improving surface water quality, and improving the quality of aquatic ecosystems.

(25) "Natural resources enhancement services" has the meaning given in s. NR 1.91 (2) (d).

(26) "Nonpoint source water pollution" has the meaning given in s. 281.16 (1) (f), Stats.

(27) "Nonprofit conservation organization" has the meaning given in s. 23.0955 (1), Stats.

(28) "Ordinary high water mark" means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or inhibition of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics. Where the bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high water mark is, the opposite bank of a stream or other reference locations on the shore of a lake or flowage may be used as an alternative point of reference to determine the ordinary high water mark.

(29) "Partial payment" means reimbursement of eligible project expenses requested by the grantee after any grant advance has been expended on eligible projects costs, including the grantee match for the grant advance, and prior to completion of the project.

(30) "Point source" has the meaning given in s. 283.01 (12), Stats.

(31) "Program-approved protocol" means a method or protocol designed to accomplish certain project activities, including monitoring, modelling, assessment, protection, or restoration, that is approved by the department for use in a project funded by a grant awarded under this chapter.

(32) "Project" means the practices or activities supported in part by grant funds awarded under this chapter.

(33) "Project scope" means the part of the grant agreement that succinctly describes the extent or range of what the project will accomplish.

(34) "Public inland lake" means a lake, reservoir, flowage, millpond, or portion thereof that is within the boundaries of the state and that is presently accessible to the public by contiguous public lands or easements giving public access.

(35) "Public inland lake protection and rehabilitation district" means a district authorized under s. 33.21, Stats.

(36) "Public waterbody" means any lake, pond, stream, creek, drainage way, waterway, wetland, or other area where water naturally flows or drains, or any portion thereof, that is open to the public for swimming, paddling, canoeing, kayaking, motorized boating, windsailing, fishing, ice fishing, aesthetic enjoyment or other use.

(37) "Qualified lake association" means a lake association that meets the qualifications under s. 281.68 (3m), Stats., and that charges an annual membership fee of not less than \$5 and not more than \$50.

(38) "Qualified river management organization" means a nonprofit corporation, as defined in s. 181.0103 (17), Stats., or a chapter or legal affiliate of a nationally recognized nonprofit organization registered in another state, that meets all of the following conditions:

(a) The organization specifies in its articles of incorporation or bylaws that a substantial purpose of its being incorporated is to support the protection or improvement of one or more rivers or riverine ecosystems for the benefit of the general public or demonstrates that the substantial purpose of its recent past actions was

to support the protection or improvement of one or more rivers for the benefit of the general public.

(b) The organization does not limit membership or deny the right of any member or any class of members to vote.

(c) The organization requires payment of an annual membership fee of not less than \$5 and not more than \$50.

(39) "Qualified school district" means a school district that qualifies under s. 281.68 (3m) (c), Stats.

(40) "Qualified surface water management organization" means a nonprofit corporation, a charitable trust or other nonprofit association that is described in section 501 (c) (3) of the Internal Revenue Code that meets all of the following criteria:

(a) The entity is exempt from federal income tax under IRC s. 501 (a) of the internal revenue code.

(b) The organization's stated purpose or past actions are aligned with the purposes of this chapter.

(c) The entity is registered with the Wisconsin department of financial institutions or, if it is located out of state and is not registered with the Wisconsin department of financial institutions, it has an established presence in the state of Wisconsin as determined by the department.

(d) The entity is seeking a grant award for projects primarily benefitting the waters of the state of Wisconsin.

(41) "Resource protection services" means activities pursuant to s. 281.55, 281.57, 281.65, or 281.695 (5), Stats., and activities described in s. NR 1.91 (2) (L), that protect surface water and aquatic ecosystems, including nonpoint source water pollution management, lake planning, and certain lake management actions.

(42) "Restoration" means the enhancement or reestablishment of historic surface water or shoreline habitat conditions and functions, to the maximum extent practicable, at a site where they have been diminished, including the reestablishment of natural hydrology, natural land contours, native vegetation, aquatic invasive species control, or the replacement of rock or woody cover.

(43) "River" means a lotic waterbody located in or bordering the state and includes rivers, streams, creeks, channels, flowages and impoundments.

(44) "Riverine ecosystem" means a river and all wetlands, groundwater, and lands in the watershed of the river and the terrestrial and aquatic life therein.

(45) "Shoreline habitat" means the area adjacent to both sides of the ordinary high water mark including the littoral and adjacent upland habitat areas that can provide both water quality and ecosystem benefits to a waterbody.

(46) "Supplies" means short-term items that are consumed during the project, typically within the course of one year.

(47) "Surface water" means surface water, as defined in s. NR 811.02 (66), that lies within or that borders the boundaries of the state.

Note: Surface waters include lakes, rivers, and wetlands.

(48) "Town sanitary district" has the meaning given in s. 60.70 (9), Stats.

(49) "Tribal governing body" means an elected tribal governing body of a federally recognized American Indian tribe or band.

(50) "Waterbody" means a lake, river, wetland, or portion thereof.

(51) "Watercraft" has the meaning given in s. 30.01 (7), Stats.

(52) "Watercraft inspection program" means a department-approved aquatic invasive species prevention program in which volunteer or paid staff conduct watercraft and equipment inspections and educate surface water users on how to prevent the spread of aquatic invasive species.

Note: The department-approved watercraft inspection program is "Clean Boats, Clean Waters."

(53) "Watershed" means an area of land over which surface water flows and drains to a common outlet, defined relative to a

specific point in the surface water drainage network and including all land upstream that drains to that point.

(54) "Waters of the state" has the meaning given in s. 281.01 (18), Stats.

(55) "Wetland" has the meaning given in s. 23.32 (1), Stats.

(66) "WisDOT" means the Wisconsin department of transportation.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (1), (20), (24), (29), (31), (36), (38), (40) (c), (41), (53) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.04 Accountability. (1) A grantee shall do all of the following:

(a) Follow generally accepted accounting principles and practices during the implementation of a project funded with a grant awarded under this chapter. Should the grantee fail to comply, the department may terminate the grant if the project is incomplete or require repayment in part or full if the project is complete.

(b) If the grantee receives a grant advance from the department, use interest earned on the grant advance, if any, for the same purposes for which the department originally awarded the grant. Should the grantee fail to comply, the department may require that earned interest be submitted to the department.

(c) Document all project costs and maintain documents to support grant expenditures in sufficient detail to show that project costs are consistent with the grant agreement. Should the grantee fail to comply, the department may withhold payment.

(d) Maintain all financial records for 6 years following the issuance of the final payment, unless longer retention is directed by the department in writing, and make these financial records available to department staff upon request. Financial records to which this paragraph applies include published public notice and bid summaries; records showing volunteer time, donated professional services, and supplies and equipment; invoices; canceled checks and bank or credit card statements; documentation regarding the life and depreciation of supplies, equipment, and capital assets purchased with grant funds awarded under this chapter; records related to earned interest, the collection of fees, and any other documents that support project costs claimed by the grantee. Should the grantee fail to comply, the department may require repayment of grant funds in part or full.

(e) Comply with all applicable state and federal laws and regulations regarding cost containment, bidding, contract awards, wage, and labor rates. Should the grantee fail to comply, the department may require repayment of grant funds in part or full.

(f) Obtain all regulatory permits and approvals required by federal, state, or local agencies, including water and wetland regulatory permits from the department, prior to implementation of any permitted activity. A grantee shall fully comply with the permits and approvals during implementation of any permitted activity and shall submit proof of each approved permit to the department with any relevant payment request. The department may not issue a payment if the approved permit is not submitted by the grantee.

(g) Enter into a land use agreement with non-grantee landowners participating in a proposed project no later than the date on which the department issues a grant agreement. Should the grantee fail to comply, the department may withhold payment.

(h) Agree to have an annual audit performed on federal funds received from a state or federal agency in accordance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, also known as "Uniform Guidance," and WI State Single Audit Guidelines issued by Wisconsin department of administration, state controller's office, if a grantee receives federal or state grant funds totaling at least \$750,000 during the grantee's fiscal year. Should the grantee fail to comply, the department may withhold payment.

(i) Operate as an independent contractor having sole control and responsibility for directing, supervising, or determining the

method, hours worked, and time and manner of any performance under a grant agreement issued under s. NR 193.12 (2), other than as specifically provided in this chapter. The department may not exercise control over the selection and dismissal of a grantee's employees or agents.

(j) Agree that any fees charged for the use of the project site shall not exceed the cost of a daily state park sticker and that revenues generated will be applied back to the project for which the grant was originally awarded. Should the grantee fail to comply, the department may require that fees collected in excess of the daily state park sticker rate be submitted to the department.

(2) The department may conduct an audit of a grantee's records for a grant award at any time during the project period or within 6 years following the issuance of the final payment unless a longer document retention period is directed by the department in writing. The department may require that the grantee repay any prior payment issued by the department if an audit reveals that costs cannot be substantiated.

(3) Failure of a grantee to comply with one or more terms of the grant agreement issued under this chapter may result in termination of the agreement and the suspension of all obligations of the department. Grant agreements may also be terminated by the department if a grantee fails to make satisfactory progress on activities approved for grant funding, fails to complete the project to the satisfaction of the department, or makes project changes without department approval for a project scope or budget amendment. The department will notify any grantee not in compliance with a grant agreement, in writing, and allow 30 days for the grantee to pursue corrective action. If corrective action does not address department concerns, the department will issue a final termination letter to the grantee, including the reason for termination.

tion. Upon termination of a grant agreement, the department may require the grantee to reimburse the department for any grant funds the department deems appropriate. If the compliance failure is determined by the secretary of the department to be due to no fault of the grantee, the amount required to settle at minimum the costs of any irrevocable obligations properly incurred shall be eligible for assistance under this chapter at the department's discretion.

(4) The grantee may terminate the grant agreement, in writing, at any time prior to the start of the project and before expending any grant funds awarded under this chapter. After the project has been started or grant funds have been expended, a grantee may request to terminate the agreement in writing, subject to approval by the department.

(5) The department may require the grantee to install and enforce an organization code of conduct that lays out expectations and guiding principles for appropriate workplace behavior. The grantee shall implement the code of conduct when dealing with department staff, volunteers, local elected officials, employees, service providers and customers. Should the grantee fail to comply, all obligations of the department under an agreement may be terminated.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (1) (b), (d), (i), (j), (2) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.05 DNR cost-share percentages and maximum grant award amounts. Grants awarded under this chapter cover a percentage of total eligible project costs up to a maximum grant award amount, as outlined in Table 1 for each grant subprogram in this chapter. The grantee shall be responsible for contributing the grantee match as specified in s. NR 193.07 and any project costs that exceed the grant award amount.

TABLE 1
Surface Water Grant Project Cost Share Table

This table lists the DNR cost-share percentage, maximum grant award, grantee match, maximum grant advance possible as a percentage of the grant award amount, and lake public access requirements of each project type under this chapter.						
Grant Category	Project Type	DNR Cost Share	Maximum Grant Award	Grantee Match	Maximum Grant Advance	Public Lake Access Required
Education and Planning Grants ^a	Surface Water Education	67%	\$5,000	33%	75%	No
	Surface Water Planning		\$10,000			
	Comprehensive Planning for Lakes & Watersheds		\$25,000			
	County Lake Grants		\$50,000			

TABLE 1
Surface Water Grant Project Cost Share Table (Continued)

Grant Category	Project Type	DNR Cost Share	Maximum Grant Award	Grantee Match	Maximum Grant Advance	Public Lake Access Required
Management Grants	Healthy Lakes & Rivers	75%	\$25,000	25%	25%	Project-specific
	Surface Water Restoration (Lakes)		\$50,000			
	Surface Water Restoration (Rivers)		\$25,000			
	Management Plan Implementation (Lakes & Watersheds)		\$200,000		25% not to exceed \$25,000	Project-specific
	Management Plan Implementation (Rivers)		\$50,000		25%	
	Ordinance Development		\$50,000			No
	AIS Prevention		\$24,000 ^b			Yes
	AIS Early Detection and Response		\$25,000		Project-specific	
	AIS Large-scale Population Management		\$150,000		25% not to exceed \$25,000	Yes
	AIS Small-scale Population Management		\$50,000		25%	
	AIS Research and Demonstration		\$500,000 ^c		25% not to exceed \$25,000	No
	Fee Simple Land and Easement Acquisition (Lakes)		\$200,000		100% of approved land value at escrow closing	No ^d
	Fee Simple Land and Easement Acquisition (Rivers)		\$50,000			
	Wetland Restoration Incentive	100%	\$10,000	0%	0%	No
	Lake Monitoring & Protection Network	100%	Up to 25% of lakes & AIS appropriation	0%	N/A	No

a. The maximum amount of combined Education and Planning grant awards to a lake, river, or grantee may not exceed \$50,000 in one state fiscal year as specified in s. 281.68 (2) (a), Stats.

b. The watercraft inspection program provides \$4,000 for inspection activities carried out on each landing or pair of landings.

c. A maximum of \$500,000 may be awarded annually for projects under this subprogram.

d. A grantee acquiring property through title in fee simple or rights to a property via a conservation easement shall ensure that the property provides for public access as provided in s. 281.71, Stats., unless the department determines, and documents in writing, that the property may be closed to public access to protect wild animals, plants or other natural features in accordance with s. 281.71 (1) (c), Stats.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in Table 1 made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.06 Eligible and ineligible costs. (1) ELIGIBLE COSTS. The department may reimburse eligible project costs at the DNR cost-share percentage up to the maximum allowable grant award amount if the costs are reasonable and necessary for the project, documented, consistent with the approved application that is part of the grant agreement, directly related to the project, and incurred during the grant period. Eligible costs include any of the following:

(a) *Labor and fringe benefits.* 1. Labor costs incurred by grantee staff, whether existing or new, to carry out project activities identified in the grant agreement. Labor costs shall be based on the salary, hourly wages, fringe benefits and other items determined to be appropriate by the department that have been previously established by the grantee and paid to the employee at the time the expense was incurred for staff time.

2. Direct administrative costs, including actual salary or hourly wages and fringe benefits incurred by immediate supervisors and support staff that can be tracked, charged directly to and accounted for by the project. Supervisors and support staff are understood not to be involved in the day-to-day implementation of the project. Costs under this subdivision may not exceed 10% of the project grant award amount.

(b) *Supply and services costs.* Costs for items directly related to the implementation of the project and the proportional share of costs for items only partially used for implementation of a project funded with a grant awarded under this chapter, including all of the following:

- Office supplies, printing, photocopying, and postage.
- Mileage costs, not to exceed the federal per-mile business rate.

3. Reasonable planning, engineering, and design costs necessary to complete a regulatory permit application required to implement a project if the costs are incurred within 12 months prior to the grant application submittal deadline.

4. Fees necessary for federal, state, or local permits required for implementation of the project.

5. A proportional share of costs associated with implementation of the project.

Example: Suppose that an approved grant application included costs for annual rental of a multi-function machine for the office. Suppose further that there are 6 staff in that office, each working on different projects. The proportional share of the annual rental of the multi-function machine that can be assigned to a grant awarded under this chapter would be no more than 1/6 of the annual cost.

6. Engineering, landscape architecture design, construction, consulting or other professional services.

7. Sampling, monitoring, resource assessments and other field work and data collection costs.

8. Analyses performed by the Wisconsin State Laboratory of Hygiene or another facility approved in writing by the department.

9. Rental or lease of equipment and facilities necessary for the completion of the project.

10. A proportional share of website design and maintenance costs associated with implementation of the project.

11. A proportional share of advertising media costs.

12. A proportional share of the costs of required financial and compliance audits for the project.

13. Training for grantee staff or volunteers that execute project activities, including registration costs, lodging, meals, trans-

portation, mileage, and other cost associated with the training that are approved by the department.

14. Development, editing and distribution of informational or educational programs and materials, reports, management plans and other project documents and deliverables.

15. Installation of equipment and supplies, limited to the initial cost of installation.

16. Legal costs, including costs associated with the preparation and filing of deed restrictions and other contracts, the review of ordinance language, and other legal costs necessary to carry out a project funded under this chapter as approved by the department.

17. Costs for a department-approved watercraft inspection program, limited to the following:

- a. Time spent by inspectors monitoring landings.
- b. Time spent at trainings.
- c. Purchase of education and outreach materials from UW-Extension.
- d. Labor costs for the coordination and administration a program.

18. Other costs approved in writing by the department.

(c) *Equipment and capital asset costs.* Equipment and capital assets purchased with grant funds awarded under this chapter, if approved in advance by the department. Inclusion of the equipment or capital asset in a grant agreement constitutes the department's approval for costs under this paragraph. Equipment and capital assets shall conform to the procedures for maintenance and disposition of assets outlined under s. NR 193.14. If several component parts are purchased separately and assembled into a single piece of equipment, the department may consider the total cost of all components of the unit for reimbursement when considering the appropriate cost-share percentage.

(d) *Acquisition costs.* Acquisition costs associated with the purchase of fee simple interest or a conservation easement land acquisition.

(2) **INELIGIBLE COSTS.** Costs not directly associated with or necessary for the implementation of the project, as determined by the department, are ineligible for reimbursement. Ineligible costs include those for activities outlined under ss. NR 193.54 and 193.64 as well as all of the following:

(a) Fines or penalties incurred due to a violation of, or failure to comply with, federal, state, or local laws and regulations.

(b) Ordinary operation expenses of a grantee, such as salaries and expenses of public officials that are not directly related to the project.

(c) Purchase of aquatic plant harvesters, boats, motor vehicles, or office furniture.

Note: Financial support for the purchase of aquatic plant harvesters is available as specified in s. 30.92 (4) (b) 8., Stats.

(d) Dredging for enhancing navigation or recreation.

(e) Dam maintenance, repair and operation.

(f) Liability insurance.

(g) Water safety patrols.

(h) Routine maintenance and operating costs of equipment or facilities, including pumps, aerators, plant harvesters, or sedimentation basins.

(i) Indirect costs not directly assignable to a grant, program or project.

(j) Food or beverages at grantee events.

(k) Clothing, except as provided under the department-approved watercraft inspection program and other authorized department activities.

(L) Consulting costs for preparing an application for a grant awarded under this chapter.

(m) Costs associated with fundraising.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (1) (a) 1., (c), (d), (2) (intro.), (k) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.07 Grantee match. (1) The grantee shall pay the grantee match for a grant awarded under this chapter using funds not provided by the department. The minimum grantee match shall amount to the percentage of the total project cost that is specified in Table 1 under s. NR 193.05. The grantee shall confer with the department if the grantee match includes federal funds or other state funds to determine applicability as grantee match.

(2) (a) Eligible sources of grantee match may be cash or in-kind contributions. Cash match may include cash from the grantee; funds generated by local, non-department state or federal governments; and grants or contributions from foundations, businesses, private individuals or nonprofit organizations. In-kind contributions shall otherwise be eligible expenses under the awarded grant subprogram and shall conform to the requirements of expense eligibility for that particular subprogram, except as indicated under subd. 6. In-kind contributions may include any of the following:

1. Labor from grantee staff established by grantee time sheets including salary, hourly wages, fringe benefits, and other costs determined by the department to be appropriate for the direct implementation and administration of the project.

2. Donated labor from volunteers, the maximum value of which is established by the department and included in the Surface Water Grant Program Guidance available on the Surface Water Grant Program website. Volunteers shall be at least 14 years of age in order for their time to be eligible as match.

Note: For a county conducting a project requiring compliance with U.S. department of agriculture natural resources conservation service standards, the value of donated labor rate in that county may be established by the U.S. department of agriculture farm service agency.

3. Donated professional services with the value determined in writing by the donor on donor letterhead.

4. Donated supplies or construction materials, with the value determined in writing by the donor.

5. Donated equipment, with the equipment purchase and rental value determined by the WisDOT's Classified Equipment Rates Standard and Special Rated Units for highway equipment. If the item donated does not appear on the WisDOT's Classified Equipment Rates Standard and Special Rated Units document, the applicant shall determine the value of donations using one of the following methods:

a. By choosing the closest equipment equivalent from WisDOT's Classified Equipment Rates Standard and Special Rated Units for highway equipment. Where the WisDOT's Classified Equipment Rates Standard and Special Rated Units for highway equipment lists "rate set locally," the department may determine a rate as published in the Surface Water Grant Program Guidance.

b. By determining the current market value using at least 3 estimates for purchase of equipment from vendors within the vicinity of the project. The lowest estimate will be used to establish the value of donated equipment. The applicant shall submit copies of all estimates with the grant application and the grantee shall maintain copies of estimates in the grantee's project file.

c. By determining the daily market rental rate at the time of application. The applicant shall establish the daily market rental rate using at least 3 estimates for the daily rental rate of equipment from vendors within the vicinity of the project. The lowest estimate will be used to establish the value of donated equipment use, prorated to reflect the number of hours of actual use.

Example: Presume the daily market rate for renting a trailer is \$60 every 8 hours, and the project requires 2 hours of use. The donated value for the trailer rental would amount to \$15.

$$\left(\frac{\$60}{8 \text{ hours}} \right) = \$7.50 \text{ per hour}$$

$$\$7.50 \times 2 \text{ hours} = \$15$$

Note: An applicant shall use the version of the WisDOT's Classified Equipment Rates Standard and Special Rated Units for highway equipment in effect in the year in which the equipment usage occurred. The rates for equipment may be obtained from the Wisconsin department of transportation. See the department's Surface Water Grant Program website for the current Wisconsin department of transportation's Classified Equipment Rates published in the State Highway Maintenance Manual.

6. Eligible costs associated with a watercraft inspection project as outlined in s. NR 193.63 if the costs are used as grantee match for Education grants and Lake, River and AIS Planning grants. Watercraft inspection costs funded in part with state dollars are not eligible sources of grantee match.

7. Other costs determined by the department to be necessary to carry out a successful project.

(b) The grantee shall track match expenditures by subcategory shown in the approved project budget, maintain proofs of purchase and proofs of payment for cash expenditures, and maintain all documentation that established the value for all donated, in-kind contributions.

(c) The grantee shall track the substantiated value of donated materials, equipment, services, and labor as all or part of the local share of the project costs.

Note: In-kind contributions may come from grantee members or from third parties. For grant purposes, "third parties" are neither the department of natural resources nor the grantee.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (2) (a) (intro.) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.08 Cost containment. (1) PROCEDURES. A grantee shall implement cost containment measures for all capital assets and any supply, service, or equipment item purchased by a grantee for projects funded with a grant awarded under this chapter if the cost exceeds \$2,500. The grantee shall identify the cost containment procedure used when requesting reimbursement. The department may request that the grantee submit proof of cost containment procedures used in an application. The grantee shall use one or more of the following cost containment procedures:

(a) *Average cost.* Using cost information obtained within the 12 months prior to the start date of the grant agreement, determine an average cost per unit of material or labor for the implementation of activities. The grantee may use information obtained from the department, other departments, or other sources to determine average costs. Under this option, eligible project costs may not exceed the average cost.

(b) *Competitive bidding.* Following the requirements under ch. 16, Stats., a grantee may request bids from contractors for the implementation of practices listed in a grant agreement. The grantee shall identify criteria for determining acceptable qualifications and publish these with the bid notice. Under this option, a grantee may select the lowest responsible bidder.

Note: Applicants may wish to review the Procurement Guide available on the Surface Water Grant Program website.

(c) *Flat rate.* The department may establish flat rates for eligible costs funded under this chapter. An applicant or grantee may choose to use the department's flat rate as one means of cost containment. Cost containment for services provided by a sub-unit of a local government may use one or more of the flat rates chosen by that sub-unit of local government. The grantee may use data obtained from the department, other departments, or from other sources to determine a flat rate.

Note: Flat rates will be published by the department on the Surface Water Grant Program website.

(d) *Force account.* A grantee may assign its employees to implement a practice.

(e) *Alternative cost containment measures.* The grantee may propose an alternative cost containment procedure if the alterna-

tive is determined to be more effective than the cost containment procedures described in pars. (a) to (d). The grantee shall identify the alternative in the grant application it submits for review and approval by the department.

(2) **DONATIONS.** The value of donated materials and supplies, equipment, services, and labor necessary to implement practices shall be established using cost containment procedures in this section. The department may request that the grantee submit proof of procedures used to value donations related to a project. All sources of grantee match, including donations, shall be indicated in the grant application submitted under this chapter. In-kind contributions shall abide by the all of following cost containment measures:

(a) The maximum value of donated professional labor may not exceed the prevailing local market wage for equivalent work.

(b) The maximum value of donated non-professional labor may not exceed the rate established by the department.

Note: The rate established by the department will be published on the Surface Water Grant Program website.

(c) The value of donated equipment may not exceed the amounts as determined under s. NR 193.07 (2) (a) 5.

(d) The value of donated materials and services may not exceed market rates and shall be established by invoice.

(3) **EXCEPTIONS.** (a) Cost containment procedures established in this section do not apply to fee simple or easement land acquisition under subch. VII. Cost of land acquisition shall in all cases be determined by appraisal approved by the department.

(b) To further control certain supplies, services, or equipment to be purchased by the grantee for department-approved projects, the department may establish a maximum cost for some supplies, services, equipment or activities in a landowner incentive program. Department-established award caps will be identified in the Surface Water grants Applicant Guide published by the department on the Surface Water Grant Program website at least 90 days before the grant application submission deadline.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (3) (b) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.09 Applications. (1) APPLICATION SUBMISSION.

(a) An application may be submitted to the department at any time prior to the deadlines established by the department for each sub-program under this chapter.

(b) To be considered for grant funding, complete applications shall be post-marked no later than the application deadline for applications that are mailed, or shall be sent via email to the department no later than 11:59:59 p.m. on the application deadline.

(c) An applicant may request a pre-application meeting to review project eligibility and receive technical or project planning assistance at any time but no fewer than 30 days prior to the application deadline.

(d) The department may require a grantee to complete a pre-proposal or to participate in a pre-application meeting in advance of the application deadline for projects proposed for funding under this chapter.

Note: Application forms and guidance on deadlines are available from the Surface Water Grant Program website. Pre-application meetings should occur early in the project planning process, well in advance of the application deadline.

(e) The department may accept Aquatic Invasive Species Early Detection grant applications year round.

(2) **APPLICATION ELIGIBILITY.** (a) The department will only score and rank complete applications. A complete application adheres to application instructions, provides all information requested on the application, and includes any other supporting documentation requested by the department. The department will review the application for completeness within 30 days of receipt and may request any additional information necessary to complete the application. The application is not considered complete until the additional information requested by the department has

been received. If the application deadline has passed, the department may determine that an incomplete application is ineligible.

(b) The department will review complete applications for eligibility. If the department determines an application is ineligible, the department will supply an explanation for the determination in writing. A grantee may request an eligibility review from the department no fewer than 30 days prior to the application deadline by submitting a request in writing along with a complete application. Prior to the application deadline, a grantee may address the eligibility concerns and submit a revised application for reconsideration. If the application deadline has passed, a revised application will only be considered during the next annual grant cycle. An application may be considered ineligible for any of the following:

1. The application lacks information needed to evaluate and score the application.
2. The application lacks the clarity needed to understand the justification, activities or likely outcomes of the project.
3. The application proposes activities that are inconsistent or that would result in outcomes that are inconsistent with one or more of the goals and objectives for surface water planning and management as described in this chapter, its enabling statutes, or program guidance.

(3) **FUNDING FLEXIBILITY.** The department may determine if an application fits into more than one subprogram under this chapter. Each application may be scored against criteria for all applicable subprograms for which it qualifies.

(4) **SCORING AND RANKING.** (a) Following review for completeness and eligibility, department staff may evaluate the strengths of each application in consideration of funding priorities established under s. NR 193.11. Applications may be scored according to criteria published by the department and ranked by subprogram, from highest to lowest project score.

(b) The department may establish a minimally acceptable score for applications submitted under each subprogram.

Note: The department's scoring criteria and minimally acceptable score are available on the Surface Water Grant Program website.

(5) **APPLICANT NOTICE.** The department will notify applicants of the status of their grant applications and the rank of their application when compared to all other applications. If the department is unable to provide the amount of grant funding requested by the applicant, the department may notify the applicant, in writing, of the basis for funding denial.

(6) **PROJECT PRIORITY LIST.** (a) The department will prepare a new or update an existing project priority list following scoring and ranking of applications submitted to the department. The project priority list includes all applicants that will be offered grant funding, ranked in order of project score. Available funding will be offered to applications in the order they appear on the project priority list.

Note: The department will publish the project priority list on the Surface Water Grant Program website.

(b) The department may offer financial assistance to an applicant in an amount less than requested for the following reasons:

1. Available grant funding is insufficient to fully fund a project in that subprogram. In the event 2 or more applications have an identical score but the funding remaining is insufficient to fund both projects, the department shall offer the applicants an identical percentage of their projects' total request.

Note: Two projects with the same score request funding in the amounts of \$200,000 and \$10,000 but the available grant funding amounts to \$20,000. Each of the projects shall be offered 9.52% of their total request, or \$19,040 and \$952 respectively.

$$\$10,000x + \$200,000x = \$20,000 \text{ where } x = 9.52\%$$

2. The department determines a proposed activity is not necessary to meet the goals of the Surface Water Grant Program.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (1) (d) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.10 Public access. (1) Each grant application for a project on a public waterbody shall include a description of the

existing and, if applicable, proposed public access. The description shall include current and future public use at all access sites, a map of the waterbody or project area, the location and numbers of carry-in sites and boat landings, numbers of car and trailer parking spaces or street parking options, and the location or proximity of public parks or other public access features.

(2) The department may not provide grant awards for natural resources enhancement services on waterbodies that do not meet the minimum public boating access standards provided in s. NR 1.91 (4) or the alternative public boating access standards provided in s. NR 1.91 (6).

(3) The department may provide grant awards for resource protection services under s. NR 1.91 (4) (c) if public boating access is not available on a waterbody.

Note: Early detection and response projects funded with a grant awarded under subchapter VI for prohibited species identified in ch. NR 40 are considered resource protection services.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (1) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.11 Priorities. (1) The department will establish grant funding priorities for each subprogram under this chapter, which may include a consideration of the degree to which the project will do any of the following:

- (a) Enhance knowledge and understanding of surface waters and aquatic invasive species.
- (b) Build an organization's capacity to carry out planning and management projects.
- (c) Protect or restore water quality or an aquatic ecosystem's quality, integrity, or provision of services.
- (d) Execute the priorities or recommendations of a management plan.
- (e) Complement other management efforts.
- (f) Reduce the spread of aquatic invasive species.
- (g) Implement a strategic prevention and control strategy for an AIS population.
- (h) Build partner or public support.
- (i) Make efficient use of resources or leverage additional funding.
- (j) Provide aid to ecosystems that are high quality or have critical restoration or protection needs.
- (k) Successfully meet project objectives and accomplish project goals.
- (L) Contribute to a first-time planning or management effort for the waterbody or grantee.
- (m) Satisfy other funding priorities consistent with the purpose of this chapter and established by the department.

Note: The department's priorities for grant funding are posted on the department's Surface Water Grant Program website. The department will use a variety of platforms to conduct outreach and notify potential applicants of program priorities. Outreach efforts may include publication on the department's website, email notification, social media announcements, and other platforms of communication.

(2) Applications on waterbodies that meet the minimum public boating access standards under s. NR 1.91 (4) (d) or where the department determines that existing facilities are sufficient to meet existing demand for public access have funding priority. If public boating access does not exist on a waterbody and a grant application will establish public boating access, then the department will include the application in the project priority list and rank it as if the project had public boating access. Project eligibility is subject to public access requirements under s. NR 193.10.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (1) (m) made under s. 35.17, Stats., Register May 2020 No. 773; renum. (1) (g) to (n) to (1) (f) to (m) under s. 13.92 (4) (b) 1., Stats., Register May 2020 No. 773.

NR 193.12 Grant awards and grant agreements.

(1) **GENERAL PROCEDURES.** A grant award for costs of a project as estimated in the grant application and approved by the department may not exceed the maximum amount of the DNR cost-share percentage identified under s. NR 193.05. Applicants may include in-kind contributions in their grant application budget.

The department may use that budget to calculate the grant award. The department may not issue a grant award that exceeds a grantee's cash costs necessary to complete the project. The department may award a grant under this chapter while the grantee is in the process of acquiring the required permits for the project.

Example: An applicant submits a planning grant application, selecting the standard cost-share percentage of 67%. The application budget indicates cash costs of \$20,000 and in-kind contributions of \$20,000 for a total project cost of \$40,000. The DNR cost-share rate of 67% would yield a potential grant award of \$26,800 based on the cash costs and in-kind contributions. However, \$26,800 is higher than actual cash costs identified in the budget of \$20,000. As a result, the maximum grant award the department may provide is \$20,000.

(2) AWARDS AND AGREEMENTS. All grant awards will result in the issuance of a grant agreement that is subject to s. NR 193.13. The grant agreement is a contract between the department and the grantee, and the grantee's receipt of the grant award is conditional upon its execution of the grant agreement. The grant agreement will contain the terms and conditions of the grant award, including a project scope describing what the project will accomplish. A project scope may include a summary of the specific goals and objectives, deliverables, products, tasks and timeline for a project funded under this chapter. A project scope may incorporate information submitted by the applicant in the grant application. A grant application for a project becomes part of the grant agreement by reference. The department and the grantee shall mutually agree to implement the grant agreement in accordance with the project proposal, application, terms, promises, conditions, plans, specifications, estimates, procedures, maps, and any assurances attached. The project proposal, application, terms, promises, conditions, plans, specifications, estimates, procedures, maps, and any assurances attached shall be a part of the agreement.

(3) AMENDMENTS. A grantee may request, in writing and during the life of the grant agreement, an amendment to the grant agreement for expenditures that deviate from those which appear in the original grant agreement, for changes to the project scope, or for an extension of the grant period. The grantee shall provide to the department written justification for the amendment request. The department may consider the justification and the availability of grant funds. Amendments to the cost or project scope of the original agreement must be signed by the department and the grantee prior to the end date of the agreement. The department may require requests for cost amendment to be submitted during a subsequent application process to be ranked with new applications. Time extensions to the original agreement may be granted by the department in writing without the grantee's signature. Time extensions are not available for department-approved watercraft inspection programs. The department shall provide notification of the decision to approve or deny the amendment to the grantee in writing.

Note: To increase the likelihood of a successful amendment request, it is recommended that the grantee submit the request at least 2 weeks prior to the end date of the grant agreement.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (1) to (3) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.13 Conditions for grant agreements.

(1) GENERAL. The department may include conditions in a grant agreement related to any of the following:

(a) Mandatory compliance with all applicable provisions of the Wisconsin statutes and the Wisconsin administrative code and all applicable federal, state, and local contract and bidding requirements in fulfilling terms of the grant agreement.

Note: The grantee should consult its legal counsel with questions concerning contracts and bidding.

Note: The department has developed the Procurement Guide for Local Governments Receiving DNR Grants, available on the department website.

(b) Requirements for the grantee to obtain and comply with permits.

(c) The range of elements that constitute the grant agreement.

(d) That the grantee is bound to implement the grant agreement in its entirety.

(e) Circumstances under which a grant agreement may be amended.

(f) The expectation that the grantee use generally accepted accounting principles and practices.

(g) A grantee's status as an independent contractor and ability to exert sole control over its employees and contractors.

(h) The expectation that the grantee develop and enforce a written code of conduct for its employees or agents.

(i) Eligible project costs.

(j) The methods, protocols, procedures, laboratory or analyses employed by a grantee to implement a grant agreement.

(k) The source and amount of grantee match.

(L) Circumstances for a grant advance.

(m) The expectation that a grantee will hire a contractor or agent using a professional service agreement.

(n) Partial payment amounts and frequency.

(o) Reporting requirements.

(p) The expectation that a grantee will record the grant agreement on the property title.

(q) Restrictions of final payments and the timing of request.

(r) The percentage of the grant award retained by the department for final payment.

(s) The expectation that a grantee will make a project site available for inspection by the department.

(t) Circumstances for grant agreement termination by the department related to grantee performance.

(u) Circumstances under which a grantee must repay grant funds to the department for failure to comply with one or more conditions of the grant agreement.

(v) Disposition of supplies, equipment, and capital assets by the grantee.

(w) The obligation of a grantee to retain and disclose project financial records.

(x) The responsibility of a grantee to have an annual audit performed on federal funds received from a state or federal agency in accordance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, also known as "Uniform Guidance," and WI State Single Audit Guidelines issued by Wisconsin department of administration, state controller's office, if the total of all federal of state grant funds received by the grantee is at least \$750,000 during the grantee's fiscal year.

(2) SPECIAL CONDITIONS. The department may include special conditions in a grant agreement for a grant awarded under this chapter. Special conditions typically include requirements that a federal agency has placed on the department through a federal grant and that are passed through to third parties that receive and use those federal funds. Special conditions may also include unique water quality or biological requirements or reporting requirements that are deemed appropriate by the department. A grant project that includes fee simple or easement land acquisition will also include special conditions related to the department's evaluation of offers to purchase, appraisals, land surveys, and other real estate costs approved by the department.

(3) ESSENTIAL CONDITIONS FOR LAND ACQUISITION. Essential conditions for land acquisition projects are specified in s. 281.71 (1), (2), (3), and (5), Stats., and apply to any applicant approved to acquire land with a grant under this chapter. The department shall include all essential conditions in a land acquisition grant agreement. Failure to comply with any essential condition will result in the title of the subject property being vested in the state.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (1) (f), (h), (k), (m), (n), (p), (r), (s), (w), (x), (3) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.14 Maintenance and disposition of assets.

A grantee may purchase supplies, equipment, or capital assets

with a grant provided under this chapter, consistent with limitations for each subprogram and federal guidelines, if applicable. The grantee shall adhere to all of the following maintenance and disposition procedures for supplies, equipment, and capital assets purchased with grant funds awarded under this chapter:

(1) **SUPPLIES.** The grantee may retain, sell, or dispose of project supplies after the term of the grant agreement and may retain sale proceeds.

(2) **EQUIPMENT.** (a) The grantee shall maintain equipment purchased with a grant awarded under this chapter in good working order during the term of the grant agreement, including use of proper fuel, routine maintenance, and fresh batteries.

(b) Equipment purchased with a grant awarded under this chapter may not be sold or donated during the term of the grant agreement.

(c) After the term of a grant agreement the grantee may retain, sell, or donate equipment purchased with a grant under this chapter and may retain sale proceeds. Sales to state of Wisconsin employees are prohibited unless items are sold at announced public sales or auctions. Acceptable methods for sale or donation include any of the following:

1. Competitive bid.
2. Public auction.
3. Open negotiated and documented sale.
4. Offer to the public at a fixed sale price.
5. Donation, transfer, or sale to another grantee qualified to receive a grant under this chapter.
6. Sale for salvage value.
7. Donation to a scrap yard or business when the equipment has no or limited value.

(3) **CAPITAL ASSETS.** The grantee shall retain capital assets purchased with grant funds awarded under this chapter in good working order during the term of the grant agreement, including use of proper fuel, routine maintenance, and fresh batteries. Other conditions pertaining to capital assets include the following:

(a) Capital assets purchased with grant funds awarded under this chapter may not be sold or donated during the term of the grant agreement.

(b) Capital asset costs are depreciated over the useful life of the item and prorated for the length of the grant period.

Example: Suppose water sampling equipment costs \$6,000 to purchase. Since the value is greater than \$5,000 the equipment is considered a capital asset and shall be depreciated for grant purposes. Suppose further that the water sampling equipment has a useful life of 10 years. For a planning grant award with a 3-year term and 67% DNR cost share rate, the maximum amount that can be paid with grant funds awarded under this chapter is \$1,206.

$$\left(\frac{\$6,000}{10 \text{ years}} \right) \times 3 \text{ years} = \$1,800$$

$$\$1,800 \times 67\% = \$1,206$$

(c) All of the following disposition procedures apply to capital assets purchased with grant funds awarded under this chapter:

1. If the per-unit fair market value of the capital asset at the end of the grant project is less than \$5,000, the grantee may retain, sell, or donate the capital asset and may retain sale proceeds. Sales to state of Wisconsin employees are prohibited unless items are sold at announced public sales or auctions. Acceptable methods for sale or donation are the same as for equipment, as described under sub. (2) (b). For purposes of this subdivision, "fair market value" means the price agreed upon between a willing buyer and a willing seller, with neither being required to act, and both having reasonable knowledge about the make, model, age, condition, maintenance history, and other relevant facts about the capital asset.

2. If the per-unit fair market value of the capital asset at the end of the grant project is \$5,000 or more, repayment may be owed to the department if the capital asset is to be sold or donated to another party and the department provided cost-shared funding for the entire cost of the capital asset. Acceptable methods for sale or donation of capital assets after the life of the grant agreement are the same as described for equipment under sub. (2) (c).

3. If a grantee purchased a capital asset in part with federal funding, the capital asset is subject to federal law for purposes of asset disposal.

(4) **DISPOSITION.** A grantee shall retain records relating to disposition of the equipment and capital assets as a condition of the grant agreement and make such records available to the department upon request for a period of 6 years after the date of final sale.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (3) (c) 1., (4) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.15 Required deed restrictions. (1) **COST-SHARE AGREEMENTS.** If the land on which a project is installed has an operation and maintenance period of more than 10 years, but the land is not owned by the grantee, the grantee shall enter into a cost-share agreement with the landowner and record the cost-share agreement at the register of deeds office in the county where the property is located. The grantee shall use the cost-share agreement template provided by the department. This subsection does not apply to Healthy Lakes and Rivers projects.

Note: The cost-share agreement template is available from the department's Surface Water Grant Program website.

(2) **GRANT AGREEMENTS.** (a) If the land on which a project is installed has an operation and maintenance period of more than 10 years, and the land is owned by the grantee, the grantee shall record the grant agreement at the register of deeds office in the county where the property is located. This paragraph does not apply to Healthy Lakes and Rivers projects.

(b) When a grant under subch. VII is awarded for fee simple or conservation easement land acquisition, the grantee shall record the grant agreement at the register of deeds office in the county where the property is located. All obligations, terms, conditions and restrictions imposed by the grant agreement shall be deemed to be covenants and restrictions running with the property and shall be effective limitations on the use of the property from the date of recording of the grant agreement and shall bind the grantee and all successors and assigns in perpetuity.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20.

NR 193.16 Professional service agreements. (1) **PROCEDURES.** (a) This section does not apply to counties, cities, towns, villages, or Wisconsin tribes.

(b) A grantee who subcontracts or hires an agent to undertake any portion of a project requiring more than \$5,000 of grant funding awarded under this chapter shall enter into a professional services agreement with the contractor or agent prior to the commencement of any contracted work using a form designated by the department. Agents include professional service providers, consultants, contractors, engineers, designers, attorneys, information technology specialists, planners, educators, and other professionals carrying out activities funded with a grant awarded under this chapter. A grantee who subcontracts or hires an agent shall comply with the cost-containment provisions under s. NR 193.08. A grantee shall submit to the department the fully executed professional service agreement with its request for final payment.

Note: While it is not required, a grantee who subcontracts or hires an agent to undertake any portion of a project requiring less than \$5,000 of grant funding awarded is encouraged to enter into a professional services agreement.

(2) **EXCEPTIONS.** In those cases where the department approves planning or design costs needed for project work that requires a permit, the department understands that the professional services agreement will not be in place before contracted

work begins. Likewise, for an Early Detection and Response project under the Aquatic Invasive Species grant program, the department may authorize project work to begin before a professional services agreement is in place.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (1) (a), (2) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.17 Project quality assurance requirements.

(1) A grantee shall ensure that its staff, contractors, volunteers, and service providers conducting activities funded with a grant awarded under this chapter complete minimum training requirements or demonstrate sufficient proficiency for grant-funded activities, when established by the department, prior to the start of the project. A grantee may contact department staff for information on training requirements or alternate proficiency standards and any department-sponsored training opportunities.

(2) A grantee shall ensure that all analyses conducted as part of a project funded with a grant awarded under this chapter are performed by the Wisconsin state laboratory of hygiene or a laboratory approved in writing by the department.

(3) A grantee shall implement department-approved quality assurance and quality control plans during the project period. If such protocols do not exist, a grantee collecting physical, biological, or chemical data may be required to submit a quality assurance and quality control plan to the department for approval prior to beginning a project funded with a grant awarded under this chapter. Quality assurance and quality control plans shall include details on the data and information to be collected, data quality standards for precision, accuracy, completeness and validation, and a plan for data management. The department may require program-approved monitoring protocols or maintenance activities necessary to track project progress or outcomes.

(4) A grantee shall submit to the department all data and other information acquired as part of a project funded with a grant awarded under this chapter in a format and frequency specified by the department in the grant agreement.

(5) A grantee shall employ program-approved protocols to accomplish project activities. If protocols are not available for proposed activities, an applicant may be required to submit a plan for department approval prior to beginning a project funded with a grant awarded under this chapter.

Note: Program-approved protocols include aquatic plant baseline monitoring, aquatic plant pre/post treatment monitoring, wetland plant community assessment and wetland pre/post treatment monitoring, water clarity and chemistry monitoring, aquatic invasive species early detection, prevention, and monitoring, lake classifica-

tion and assessment, macroinvertebrate community monitoring, water quality monitoring, and social science.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20.

NR 193.18 Grant payments. The department may make payments to the grantee, including advance payments, escrow payments and reimbursements, in the following manner:

(1) Grants awarded under this chapter are generally administered on a reimbursement basis. A grantee shall incur and pay all costs and invoiced work completed before requesting a partial or final payment from the department. A grantee shall submit to the department a request for reimbursement on forms designated by the department at a frequency determined by the department and specified in the grant agreement.

(2) The department may distribute one grant advance, with a maximum amount determined per subprogram using the percentage identified in Table 1 under s. NR 193.05. The grantee may request a grant advance at the same time the grantee returns a signed grant agreement to the department.

(3) The department may only reimburse for eligible project costs incurred during the grant period, except when otherwise approved by the department in writing. For management grants, land acquisition grants notwithstanding, a grantee may request one partial payment per year. The total of all partial payments issued by the department may not exceed 90% of the total grant award. Education and Planning grants are not eligible for partial payments. Table 2 under sub. (5) summarizes partial payments by grant program. A request for partial payment shall be submitted along with a progress report detailing activities that have taken place during the time period for which the grantee is seeking reimbursement and is subject to approval by the department.

(4) A request for final payment shall be submitted no later than 6 months after the end of the grant period. Final payment requests shall be accompanied by a final report detailing activities that have taken place during the entire project period and documentation for the costs being claimed. The final payment may not be issued by the department until final costs have been reviewed, final reports have been approved, required audits have been completed successfully, and the department has made a determination that the grant agreement has been satisfactorily fulfilled.

(5) All project costs are subject to a post-audit process that may take place after partial and final payments are issued by the department. If a determination is made that payments were made in error, the grantee may be required to make a repayment to the department.

TABLE 2

Surface Water Grant Program Payment Table

This table summarizes eligibility for partial payments, the maximum frequency of payments, the maximum number of partial payments allowed during the life of the grant, and the percentage of the grant award that is required to be retained for final payment for each subprogram under this chapter.					
Grant Category	Grant Type	Partial Payments Allowed	Frequency of Partial Payments	Maximum Number of Partial Payments	Percentage of Grant Award Retained for Final Payment
Education and Planning Grants	All Education and Planning Grants	No	Not applicable	Not applicable	25%
Management Grants	Lake & River Fee Simple Land and Easement Acquisition	No	Not applicable	Not applicable	Remaining associated costs
	Wetland Restoration Incentives	No	Not applicable	Not applicable	0%
	All other Management Grants	Yes	1 per year	4	10%

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (2) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.19 Grantee reporting. (1) Progress reports shall accompany a grantee's request for partial payment. A

grantee shall submit a progress report detailing project activities and accomplishments that have taken place during the reporting

period at the same time a grantee requests partial payment. The department may also request a progress report from the grantee at any time, up to 4 times per year. A grantee shall submit such a report within 30 days of receiving the request.

(2) A final report shall accompany a grantee's request for final payment and shall comply with all of the following:

(a) A final report shall detail the activities that occurred during the entire grant period with a written account of project actions, accomplishments, and any obstacles encountered.

(b) A final report shall include all data collected, all grant deliverables specified in the grant agreement, and any educational products or formal summaries of findings produced.

(c) A final report shall follow content or format guidelines specified by the department and shall be in an electronic format and suitable for distribution to and use by the public. The department may use the final reports, images and data for reporting, promotional, assessment or other purposes.

(d) A final report is subject to approval by the department prior to final payment.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20.

NR 193.20 Variances. The department may approve, in writing, a variance from a requirement of this chapter upon the written request of a grantee, if the department determines that a variance is essential to effect necessary grant actions or program objectives, and where special circumstances indicate a variance is in the best interest of the program. Before approving a variance, the department shall consider factors such as good cause and circumstances beyond the control of the grantee. The department may not approve variances from statutory requirements, or from appraisal, environmental inspection, or audit requirements.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction made under s. 35.17, Stats., Register May 2020 No. 773.

Subchapter II — Education and Planning

NR 193.30 Purpose. The purpose of this subchapter is to establish procedures for awarding cost-sharing grants for implementing a surface water management planning program. Projects eligible for funding under this subchapter include all of the following:

(1) Surface water education projects, which provide information and education to increase understanding of surface water and aquatic ecosystems, including aquatic invasive species. Eligible projects may focus on surface water quality, the quality of aquatic ecosystems, the quality of aquatic life, methods to protect the quality of any of the foregoing, the use of surface water, or the formation of river management organizations.

(2) Surface water planning projects, which support the assessment of surface water quality and aid in the selection of activities that will benefit surface water, including those that protect or improve water quality, prevent pollution from entering waterbodies, prevent aquatic invasive species, or protect or improve aquatic ecosystems.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20.

NR 193.31 Surface water education. Surface water education projects eligible for funding under this subchapter include all of the following:

(1) **SURFACE WATER INFORMATION AND EDUCATION.** Surface water information and education projects that accumulate new or existing information on surface water or aquatic ecosystems and disseminate it to broaden public understanding. Eligible projects may focus on surface water, aquatic ecosystems, aquatic life, water quality, the quality of aquatic ecosystems or methods to improve or protect any of the foregoing.

(2) **AQUATIC INVASIVE SPECIES INFORMATION AND EDUCATION.** Aquatic invasive species education projects that accumulate new or existing information about aquatic invasive species and dis-

seminate it to broaden public understanding. Eligible projects may focus on aquatic invasive species, aquatic invasive species identification, threats posed by aquatic invasive species, effects on aquatic ecosystems, measures to prevent spread, or best practices for aquatic invasive species control. Projects shall be consistent with the department's statewide aquatic invasive species management plan for preventing the arrival and spread of aquatic invasive species.

(3) **TRAINING AND SKILL DEVELOPMENT.** Training and skill development projects that assist a grantee in developing and conducting workshops or other training and education programs for volunteers and participants in a lake or river planning or management project.

(4) **ORGANIZATION DEVELOPMENT.** Organization development projects that provide informational and educational activities to develop an organization's capacity to carry out planning or management projects. An organization may build its capacity by growing its membership, enhancing its relationships with partners, or building the organization's skills and resources. Eligible projects may also assist a grantee in the formation of goals and objectives for a planning or management project. Grant funds awarded under this subsection may be used to support other projects approved by the department that will aid in an organization's ability to protect or improve surface water or aquatic ecosystems.

(5) **RIVER MANAGEMENT ORGANIZATION FORMATION.** River management organization formation projects that provide programs and materials to assist in forming a river management organization or meeting the criteria of a qualified river management organization. Eligible activities may include training; education; facilitated planning programs; facilitated workshops; and the development, printing and dissemination of information, surveys and educational materials designed to understand or attract members.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (1) to (5) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.32 Surface water planning. (1) ELIGIBLE PROJECTS. Lake, river and aquatic invasive species planning projects eligible for funding under this subchapter include all of the following:

(a) *Preparing to plan.* Preparing to plan projects that assist a grantee in taking steps toward developing a management plan for a waterbody, a watershed, an aquatic plant community, aquatic life, or aquatic invasive species. Eligible projects include determining a waterbody's condition; outlining goals, expectations and priorities for management; inventorying existing data and identifying data gaps when they exist; identifying problems needing management; inventorying historical management actions; or assessing planning needs to define the scope and scale of a future planning or management project.

(b) *Organization and community assessment.* Organization and community assessment projects that assist in the protection or improvement of surface water by focusing on the social dimensions of collaborative planning or management projects. Eligible projects shall employ social science tools and methods and may identify stakeholders; determine a community's capacity to complete a planning or management project; assess a community's readiness to plan or manage; identify how a community uses, values or perceives an aquatic ecosystem; or study how use values or perceptions have changed over time.

Note: Social science tools and methods include surveys, interviews, focus groups, assessments, case studies and oral histories.

(c) *Water quality assessment.* Water quality assessment projects that evaluate data on surface water quality and report the findings of those evaluations. Eligible projects shall collect new or assemble existing water quality data and shall include an assessment of waterbody condition following the Wisconsin Consolidated Assessment and Listing Method, or WisCALM. Eligible

activities include a quantitative evaluation of the degree that pollution sources contribute to water quality problems.

Note: Pollution sources include point source, nonpoint source, and internal loading.

(d) *Watershed assessment.* Watershed assessment projects that determine the causes and sources of pollution in the watershed that are contributing to water quality problems now or in the likely future. Eligible activities shall include one or more of the following: data collection and analysis; modelling; scenarios; protection inventories; or other work done to understand watershed characteristics likely to affect the quality of surface water or aquatic ecosystems now or in the future. Watershed projects may also include assessing groundwater quality and quantity and assessing contributions of septic systems to water quality problems.

(e) *Aquatic life assessment.* Aquatic life assessment projects that evaluate data on aquatic life and report findings. Eligible projects shall collect new or assemble existing data on an aquatic plant community, fish community, shoreline habitat, or other aquatic life feature approved by the department. Eligible activities may include one or more of the following: species-specific identification; an assessment of aquatic life quality or condition; mapping; population analysis; population modelling; any assessments necessary for aquatic invasive species control; and other aquatic life projects necessary for the protection or improvement of aquatic ecosystems.

(f) *Comprehensive management planning for lakes and watersheds.* Comprehensive management planning projects for lakes and watersheds that will result in a new or updated management plan for one or more of the following: a lake, a watershed, an aquatic plant community, aquatic invasive species prevention and aquatic invasive species. A management plan is a dynamic, written document that presents baseline information, explores management challenges, defines general management goals and objectives and provides strategic direction for selecting management actions and planning specific activities to accomplish plan objectives. The plan should present a set of recommended management actions and outline a plan for implementation, progress assessment, and plan updates. The public shall be given an opportunity to review the plan before it is adopted and provide comment. The grantee shall summarize comments received and use comments to modify the management plan, as appropriate.

Note: Management plans include watershed plans, Nine Key Element watershed plans, basin plans, Total Maximum Daily Load implementation plans, lake management plans, river management plans, county land and water plans, aquatic plant management plans, and aquatic invasive species control plans.

(g) *Pre-implementation planning.* Pre-implementation planning projects that result in a final design and specifications for a management plan implementation project eligible under s. NR 193.51 (3). Eligible activities for pre-implementation planning projects include one or more of the following: site assessment, monitoring, modelling, environmental assessment, drafting engineering plans, drafting construction plans, landscape design, and site-specific specifications.

(h) *Other assessments and planning projects.* Other projects and activities necessary for developing or updating a management plan may be approved by the department as eligible for a grant awarded under this subchapter.

Note: Other assessments and planning projects include review, evaluation or development of ordinances and other local regulations related to the management of pollution sources, recreational use, or other human activities that may affect the natural beauty or other components of a lake or river ecosystem.

(2) **EDUCATION ACTIVITIES IN PLANNING PROJECTS.** No more than 20% of the funding for a lake, river or AIS planning project may support education activities listed under s. NR 193.31.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (1) (g) made under s. 13.92 (4) (b) 7., Stats., and correction in (1) (a) to (g) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.33 Conditions for management plan development grants. A management plan completed under s. NR 193.32 (1) (f) shall be submitted with a final report required under

s. NR 193.19 along with the request for final payment, with all of the following conditions:

(1) A plan shall comply with minimum plan requirements published in program guidance and available upon request.

(2) A plan shall include or be submitted along with a description of the process used to provide the public the opportunity to review and comment on the plan, a summary of comments received, and the steps the grantee took or intends to take to formally adopt the plan.

(3) The department will review submitted plans and may require modifications prior to final payment.

(4) If a grantee intends to apply for a management plan implementation grant under s. NR 193.51 (3) or s. NR 193.63 (2) or (3), a grantee may request a determination of eligibility outlined under s. NR 193.53 at the same time the grantee requests final payment.

(5) Approval of final payment does not necessarily constitute eligibility of plan recommendations under s. NR 193.53. The department may determine that none, some, or all of the submitted management plan's recommendations for are eligible for a management plan implementation grant.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (4) made under s. 13.92 (4) (b) 1., Stats., Register May 2020 No. 773.

Subchapter III — County Lake Grants

NR 193.40 Purpose. The purpose of this subchapter is to establish procedures for implementing a lake classification grant program as provided for in s. 281.69 (5), Stats. Grants awarded under this program will allow counties to assist the department to update and improve lake information, classify lakes by use, and implement activities that will protect water quality and lake ecosystems.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20.

NR 193.41 Eligible grantees. Only counties and tribal governing bodies are eligible to apply for a County Lake Grant.

Note: Though s. 281.69 (5) directs this subprogram to counties only, s. 20.002 (13) provides that any state grant program available to a local government may also be made available to a tribal governing body as defined in this chapter. The scope of a lake classification project for a tribal governing body under this chapter would be limited to the geographic area within the tribe's reservation boundary.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20.

NR 193.42 Eligible projects. One or more projects may be included in a single grant application. Any of the following projects are eligible for a County Lake Grant:

(1) **COUNTY LAKE PROTECTION PLANS.** County lake protection planning projects will update and improve basic lake information for lakes located in the county, establish consistency between existing lake information systems, and identify lakes in need of protection. A lake protection planning project shall result in a lake protection strategy that is designed by the county working in cooperation with the department and employing program-approved protocols. A lake protection plan shall have all of the following elements:

(a) A county shall verify and, where necessary, update basic lake information. Updated or new state lake information that may impact a regulatory program shall be approved by the department before becoming official lake information. The following information is considered basic lake information for the purposes of this paragraph:

1. The size, depth, and shape of the lake.
2. The size of the lake's watershed.
3. The quality of the water in the lake.
4. The location and capacity of public access.
5. The presence of aquatic invasive species.

(b) A county shall identify lake protection priorities for the purposes of implementing a county lake protection project. Lakes that are identified as protection lakes are those that are attaining state eutrophication water quality standards. For the purposes of

identifying county lake protection projects, counties shall classify a subset of those lakes that are most vulnerable to degradation, considering all of the following factors:

1. The lake's current use, or potential for the lake to be overused for recreational purposes.
2. The current or potential development of land surrounding the lake.
3. The potential for the lake to suffer from nonpoint source water pollution.
4. The condition of the fish and wildlife population and the extent of their habitats in and around the lake.
5. The presence or risk of introduction of aquatic invasive species.

(c) A county shall develop a list of proposed activities for lake protection and a strategy for their implementation.

(d) A county may classify lakes for the purpose of implementing protection activities for which the county or a cooperating jurisdiction has existing statutory authority. A county may work with other local governments on lake use classification for managing recreational uses. Nothing in this section shall be interpreted to grant new authority to counties for managing lakes and shorelines. Classification and the resulting protection activities may not result in lowering existing state standards designed to protect lakes and shall be consistent with all existing state classifications and regulatory programs.

Note: Examples of state lake information can be found in Wisconsin Lakes PUB-FH-800, the Surface Water Integrated Monitoring System (SWIMS), and the department's 24K hydrography database.

(2) COUNTY LAKE PROTECTION PROJECTS. A county that has completed a lake protection plan is eligible to apply for a grant under this subchapter to assist in the implementation of lake protection activities. Eligible projects are planning and management projects that have been identified in this chapter.

History: CR 19-078; cr. Register May 2020 No. 773, eff. 6-1-20; correction in (1) (intro.), (d) made under s. 35.17, Stats., Register May 2020 No. 773.

Subchapter IV — Surface Water Management

NR 193.50 Purpose. The purpose of this subchapter is to establish procedures to award cost-sharing grants to implement a Surface Water Management Grant Program for lakes, rivers and wetlands. Grants awarded under this subchapter shall be used to implement protection or improvement projects for surface water or aquatic ecosystems. Grant funding awarded under this subchapter may be used for Healthy Lakes and Rivers projects, shoreland protection, in-water management, wetland restoration, management plan implementation, wetland incentives, and ordinance development.

History: CR 19-078; cr. Register May 2020 No. 773, eff. 6-1-20; correction made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.51 Surface water management grants. Surface Water Management Grants shall support projects that protect or restore aquatic life or water quality. Subprograms under this subchapter include all of the following:

(1) SURFACE WATER RESTORATION. Surface water restoration projects, which include wetland, shoreland, or in-water projects that will protect or improve water quality or an aquatic ecosystem. Eligible projects include all of the following:

(a) *Healthy Lakes and Rivers.* A Healthy Lakes and Rivers project that will assist a grantee to implement prescribed best management practices to create healthy lakes and rivers. Healthy Lakes and Rivers projects are subject to all of the following conditions:

1. Install best management practices that are determined and approved by the department.
2. Follow the operation and maintenance requirements as prescribed by the department. A grantee shall obtain a signed conservation contract from all participating landowners that includes a

commitment to install one or more best practices and to operate and maintain the function of the practice for at least 10 years.

3. Include no more than 10% of the DNR cost share of a Healthy Lakes and Rivers project as project management or technical assistance costs that are not implementation costs. The 10% is calculated based on the DNR cost share of the per practice cost and may not exceed the funding cap established in s. NR 193.05.

Note: A copy of the statewide Healthy Lakes and Rivers Plan may be obtained directly from the Healthy Lakes website. Copies are also on file at the offices of the department and legislative reference bureau.

(b) *Shoreland protection.* A shoreland protection project that will assist a grantee in carrying out best management practices intended to improve surface water or aquatic ecosystems. Eligible activities include one or more of the following best practices conducted in compliance with the general and practice-specific standards outlined in s. ATCP 50.61:

1. Critical area stabilization.
2. Diversions.
3. Filter strips.
4. Grade stabilization structures on artificial or non-navigable streams, channels, and gullies.
5. Riparian buffers.
6. Streambank or shoreline protection, in conjunction with revegetation, soil bioengineering, or upland erosion control.
7. Water bars; sediment and water basins; pervious pavement; rain gardens; vegetation planting and urban pollution and runoff control projects; and impervious area removal within 35 feet of the ordinary high water mark.

(c) *In-water management.* In-water management projects that will assist a grantee to protect or improve the littoral or in-stream areas of waterbodies. Eligible activities include installing department-approved structures that provide fish or wildlife habitat; culvert, road, or trail stream crossing modification or removal and other modifications to improve habitat or connectivity; and planting of native aquatic plants.

(d) *Wetland restoration.* Wetland restoration projects that will assist a grantee to restore or enhance a prior converted or existing wetland. Projects shall occur on hydric soils. A grantee shall implement best practices outlined in ch. ATCP 50 and follow the associated U.S. department of agriculture natural resources conservation service practice standards for Wisconsin for wetland restoration or enhancement. Eligible activities include drainage tile disablement, ditch plugs and fills, water level manipulation, and vegetation management and enhancement.

(2) WETLAND RESTORATION INCENTIVES. Wetland restoration incentives, which are intended to support wetland restoration projects and are available to a grantee who has completed a comprehensive land use plan as defined in s. 66.1001 (1) (a), Stats., that includes a recommendation for wetland enhancement or restoration. Incentive grants of \$10,000 each will be awarded to eligible recipients with no grantee match required. Funds awarded under this subsection shall be used for wetland restoration projects following standards outlined in sub. (1) (d). Eligible recipients shall include counties, towns, villages, qualified lake associations, town sanitary districts, public inland lake protection and rehabilitation districts, and other local governmental units. Qualified surface water management organizations and nonprofit conservation organizations are not eligible for grants under this subsection.

(3) MANAGEMENT PLAN IMPLEMENTATION. Management plan implementation projects, which protect or improve surface water or aquatic ecosystems by implementing one or more recommendations contained in a management plan and approved for eligibility by the department under s. NR 193.53. Eligible activities shall be those that are necessary to implement the approved recommendations. Once the department has approved a management plan recommendation and implementation project, the applicant may

apply for grant funding. Eligible activities subject to approval include all of the following:

- (a) Those that are eligible under sub. (1).
- (b) Other watershed management and nonpoint source pollution prevention and control practices specified in ch. NR 120.
- (c) Lake restoration activities where the department has determined that any of the following conditions exist:
 - 1. The external sources or causative factors of the problems to be remediated have been or very likely will be controlled to the best practical extent possible prior to or by the restoration activities.
 - 2. The proposed activities have a high likelihood of successfully meeting the management plan objectives or state water quality standards.
- (d) Other activities approved by the department that implement one or more recommendations in a management plan, including any of the following:

- 1. Management staffing grants to support implementation. Applications for management staffing grants shall include a position description including goals, objectives and tasks and the percentage of time assigned to each activity. For staffing requests of over 1,000 hours, the department may require annual or semi-annual performance reviews.
- 2. Applied management studies that employ a research-based approach designed to improve the understanding and implementation of surface water management activities.
- 3. Landowner incentive projects to encourage participation in surface water quality or aquatic habitat management activities. Incentive payments may include incentives for conservation best practices or participation incentives for landowners or businesses engaging in a department-approved initiative. Applications shall include a justification for payment or other incentives, a description of the payment process and documentation, and expected outcomes.

(4) ORDINANCE DEVELOPMENT. Ordinance development projects, which assist a grantee with the development of local regulations or ordinances to protect or prevent degradation of water quality or aquatic life. Ordinance development projects shall include all of the following:

- (a) The development of an ordinance that is presented for adoption by the grantee or another appropriate jurisdiction.
- (b) An assessment of the administrative and enforcement capacity and costs to implement the ordinance.

Note: Examples of ordinances include boating or other recreational use restrictions, stormwater management and land use ordinances.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (2) made under s. 13.92 (4) (b) 7., Stats., and correction in (1) (intro.), (a) (intro.), 3., (b) (intro.), (c), (d), (2), (3) (intro.), (4) (intro.) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.52 General requirements. (1) APPLICABILITY. Healthy Lakes and Rivers projects, shoreland protection projects, in-water management projects, wetland restoration projects, and wetland restoration incentives outlined in s. NR 193.51 (1) and (2) shall occur in one or more of the following locations:

- (a) Within 1,000 feet of the ordinary high water mark of a lake.
- (b) Within 300 feet of a river or to the landward side of the flood plain, whichever distance is greater.
- (c) Within a wetland that is part of an aquatic ecosystem.

(2) PROJECT DESIGN PLAN. In addition to the application elements specified in subch. I, applications for a grant for a shoreland protection project, in-water management project, or wetland restoration project outlined in s. NR 193.51 (1) (b) to (d) shall be submitted with a project design plan that includes the following elements to be considered during application review and ranking:

- (a) A project implementation timeline and a site map. Projects requiring design and engineering shall submit one or more additional supporting documents, including schematics, site plans,

monitoring plan, monitoring schedule, landscape design, or vegetation planting lists.

- (b) A maintenance plan describing how the project will be managed to maintain its conservation value.

(3) CONTROL OF PROPERTY. Unless the property is owned by the state, the grantee shall have control of the property, through ownership, easements, deed restrictions, or contracts such that the sites being restored with grant funds awarded under s. NR 193.51 (1) (b) to (d), and s. NR 193.51 (2) and (3) remain in conservation use for 20 years.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (1) (b), (2) (intro.), (3) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.53 Eligibility for a management plan implementation project. (1) A grantee shall request from the department a determination of eligibility prior to applying for a management plan implementation grant awarded under s. NR 193.51 (3) or an aquatic invasive species control grant awarded under s. NR 193.63 (3) or (4), subject to the following:

- (a) A request for an eligibility determination for a future grant cycle shall be made in writing at least 60 days prior to the grant application deadline.
- (b) The request shall include a cover memorandum describing the activities proposed for grant funding, a complete copy of the management plan, the citation of the supporting recommendation in the plan, a description of the process the grantee used to provide the public the opportunity to review and comment on the plan, and a summary of any comments received.

Note: The citation of a supporting recommendation in a plan may be specified using the page and line number or section where the recommendation occurs.

(2) The department shall consider the request and may determine that none, some, or all of the recommendations or activities are eligible for a management grant. Once the department has approved one or more recommendations, an applicant is eligible to apply for a management plan implementation grant. When determining eligibility for a management plan implementation project, the department may do any of the following:

(a) Consider the extent to which the activities recommended in a plan are likely to do one or more of the following:

- 1. Prevent the pollution of surface water.
 - 2. Protect surface water or aquatic ecosystems.
 - 3. Improve surface water or aquatic ecosystems.
- (b) Consider the extent to which the content presented in the plan supports the implementation of the requested management activities or alternatives.

(c) Complete the review within 45 days of the receipt of the plan, at which point the department may request additional information or approve all, some, or none of the plan recommendations.

(d) Communicate the basis for denying the approval of any of the plan recommendations submitted for eligibility determination, in writing.

(3) The department may consider the eligibility of management plan recommendations or activities under this section when they are contained in a current management plan. A current management plan will have a completion date of no more than 10 years prior to submittal under this section, notwithstanding aquatic plant management plans, which shall have a completion date of no more than 5 years prior to submittal under this section. The department may determine that a longer lifespan is appropriate for a given management plan if the applicant can demonstrate it has been actively implemented and updated during its lifespan.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (1) (intro.), (2) (intro.), (c) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.54 Ineligible activities. Activities not eligible for funds awarded under this subchapter include those that are necessary to comply with a regulatory action, including wetland mitigation projects that implement the restoration, enhancement,

or creation of wetlands or shoreline habitat to compensate for permitted adverse impacts to other wetlands or shoreline habitats, including the use of credits from a wetland mitigation bank; shoreland mitigation projects; AIS control and aquatic plant management projects; the installation of sanitary sewers; and the maintenance and operation of aeration systems, stormwater detention ponds and facilities, dams, sanitary sewers, or private onsite waste disposal systems.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20.

Subchapter V — Aquatic Invasive Species Control

NR 193.60 Purpose. The purpose of this subchapter is to establish procedures for awarding cost-sharing grants for integrated pest management of aquatic invasive species populations that threaten or cause adverse effects on surface waters and shorelands.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20.

NR 193.61 Definitions. In addition to definitions provided in s. NR 193.03, the following definitions apply to this subchapter:

- (1) “Established population” means a reproducing population of aquatic invasive species that is not a pioneer population.
- (2) “Integrated pest management strategy” means a pest management strategy consistent with s. NR 193.65 (1).
- (3) “Person” has the meaning given in s. 990.01 (26), Stats.
- (4) “Pioneer population” means a small population of an aquatic invasive species in the early stages of colonization whose presence has been verified within the past 5 years.
- (5) “Prohibited species” has the meaning given in s. NR 40.02 (41).
- (6) “Restricted species” has the meaning given in s. NR 40.02 (46).
- (7) “Verified” means for an aquatic invasive species to have been identified and had its location confirmed through the department’s verification and response protocol.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (3) made under s. 13.92 (4) (b) 7., Stats., Register August 2020 No. 776.

NR 193.62 Eligible grantees. In addition to the eligible grantees under subch. I, any person owning property on which a verified prohibited species occurs or who has a waterbody located entirely on their property in which a verified prohibited species occurs is eligible to apply for an Aquatic Invasive Species Control Grant under this subchapter.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20.

NR 193.63 Eligible projects. (1) **PREVENTION.** Prevention projects are intended to prevent the introduction of new invasive species to a waterbody or control the spread of invasive species among waterbodies. Eligible projects include:

(a) Watercraft inspection projects, which shall comply with all of the following:

1. Watercraft inspectors shall be trained by attending a department-approved training workshop and receiving program materials approved by the department prior to the initiation of inspections.
2. Trained inspectors shall conduct inspections of watercraft or equipment at waterbody access points. Watercraft inspectors shall collect and report data, provide education, and collect or report specimens that may be aquatic invasive species.
3. Trained watercraft inspectors shall accumulate a minimum of 200 inspection hours. Hours may be spent at one waterbody access point or spent across 2 access points. Grantees shall prioritize spending grant-funded time when public activity on waterbodies is the highest, including weekends, holidays, fishing tournaments, and during other special events.

4. Data collected through watercraft and equipment inspection shall be reported through the department’s statewide database. Data uploaded to the statewide database shall serve as progress reports and the final report required under s. NR 193.19.

Note: “Clean Boats, Clean Waters” is the department-approved watercraft inspection program and the Surface Water Integrated Monitoring System is the department’s statewide database.

(b) Prevention projects intended to reduce the spread or risk of introduction of AIS as approved by the department. Eligible educational activities shall be limited to those that are directly related to the implementation of a prevention project funded under this subsection.

Note: AIS Education grants available under this chapter are outlined in s. NR 193.31 (2).

(2) **EARLY DETECTION AND RESPONSE PROJECTS.** Early detection and response projects will assist applicants in the planning and management of verified populations of prohibited species and of verified pioneer populations of restricted species. Pioneer populations are in the early stages of colonization. The department may use best professional judgement, considering the population extent, abundance, and spatial distribution, to determine whether the population may be qualified as a pioneer population eligible for funding under this subsection. For rooted invasive aquatic plant species, a pioneer population is one that covers a small area, is typically sparse, and will have been verified during the preceding 5 years. A pioneer population will cover an area that is less than 3 acres in size or has colonized less than 3% of the habitable area of the lake, stream reach, or wetland, whichever is greater.

(a) For a restricted aquatic invasive species, one grant for any one population may be awarded for an early detection and response project under this section.

(b) The grant period for early detection and response projects shall begin on the date the project is authorized by the department.

(c) Projects may include work to develop a management plan, carrying out a department-approved watercraft inspection initiative in accordance with sub. (1) (a), the purchase of portable boat washing stations, and other activities approved by the department.

(d) Notwithstanding s. NR 193.65 (1), aquatic invasive species control activities proposed under this subprogram should be developed in coordination with the department and shall be subject to department approval considering the projected risks and likely outcomes of control activities. Eligible control activities are those that are likely to result in population removal or significant reduction such that the population may be managed in the future at a small size.

(e) The department may specify aquatic invasive species control measures and monitoring and reporting activities for a project funded with a grant awarded under this subsection.

(3) **LARGE-SCALE POPULATION MANAGEMENT PROJECTS.** Large-scale population management projects shall consist of aquatic invasive species control projects that will result in long-term, multi-season suppression of one or more established populations of aquatic invasive species in a substantial portion of a lake, stream reach, or wetland; or aquatic invasive species control projects that employ a strategic approach to address multiple populations within a defined region. Management projects shall implement activities recommended in a management plan following a determination of eligibility under s. NR 193.53.

(4) **SMALL-SCALE POPULATION MANAGEMENT PROJECTS.** Small-scale population management projects shall consist of aquatic invasive species control projects that will maintain low abundance or frequency of one or more small established aquatic invasive species populations or further reduce them in size. Grant funds awarded under this paragraph may be used to manage a small populations resulting from a successful large-scale population management project. Small-scale management projects shall implement management activities with the goal of continued suppression of the target species on a localized scale, where the management actions are unlikely to affect the entire lake, stream

reach, or wetland. Management projects shall implement activities recommended in a management plan following a determination of eligibility under s. NR 193.53.

(5) RESEARCH AND DEMONSTRATION PROJECTS. Aquatic invasive species research and demonstration projects are intended to be a cooperative activity between a grantee and the department. Such projects shall be designed to increase scientific understanding of the ecological and economic implications of aquatic invasive species and their management and to assess experimental and innovative techniques for their prevention, containment and control. Procedures for applications and grant awards include the following:

(a) Proposals for research projects shall include the goals and objectives of the project, a brief description of the methods for the project, the estimated costs and a timeline for completion of the project.

(b) The department may solicit research proposals through a request for proposal process.

(c) Prior to each biennium the department may consult with the invasive species council regarding priority aquatic invasive species research.

(d) The department has sole discretion to award a grant under this subprogram and will work with the grantee to develop a study design and grant application.

(e) No more than \$500,000 shall be awarded annually for projects under this section.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (2) (intro.), (c), (e), (5) (a), (d) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.64 Ineligible activities. Activities not eligible for grant funding under this subchapter include chemical treatment or mechanical harvesting of aquatic plants for the purpose of seasonal nuisance relief, management techniques that are not expected to result in effective control of the target species, or maintenance and operation of aeration systems or mechanical devices used to suppress aquatic plant growth. The department may deny a project if it determines the proposed management poses a significant risk to human health, nontarget organisms, or the environment or is determined to be inconsistent with the principles of an integrated pest management strategy as specified under s. NR 193.65 (1).

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20.

NR 193.65 General conditions. (1) INTEGRATED PEST MANAGEMENT. Projects funded with a grant awarded under this subchapter shall employ an integrated pest management strategy. Integrated pest management is an ecosystem-based management strategy that focuses on long-term suppression of pests or their damage and considers all of the available pest control practices. Integrated pest management projects shall be informed by current, comprehensive information on pest life cycles and the interactions among pests and the environment. A project that employs an integrated pest management strategy shall include more than one management practice.

(2) MANAGEMENT PRACTICES. Practices eligible for inclusion in an integrated pest management strategy include prevention, biological control, biomanipulation, nutrient management, habitat manipulation, substantial modification of cultural practices, pesticide application, water level manipulation, mechanical removal, population monitoring, and other available pest control methods approved for grant-funded projects. Pesticide application may be approved only when other available pest control methods are considered and when pesticide applications are conducted with the goal of removing only the target species.

(3) MONITORING AND ASSESSMENT. The department may require monitoring activities or an assessment of management outcomes as a condition of the grant award.

(4) PUBLIC BOATING ACCESS. Management of a prohibited species or a pioneer population under this subchapter is considered a resource protection service and does not require public boating access under s. NR 1.91 (4). Large-scale and small-scale population management projects require minimum public boating access as set out in s. NR 1.91 (4).

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (2), (4) made under s. 35.17, Stats., Register May 2020.

Subchapter VI — Lake Monitoring and Protection Network

NR 193.70 Purpose. The purpose of this subchapter is to establish eligible activities, qualifications, and procedures for the administration of contracts and cooperative agreements for the creation and support of a statewide Lake Monitoring and Protection Network. Contracts under this subchapter will be used to support the statewide coordination of lake protection activities, including the collection and reporting of data on the use and condition of lakes and lake ecosystems. Cooperative agreements under this subchapter will be used by network cooperators to coordinate and support the efforts of network participants to protect lakes, including through watercraft inspection, monitoring, and early detection of aquatic invasive species, and other activities related to lake protection and aquatic invasive species prevention.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.71 Definitions. In addition to definitions provided in s. NR 193.03, the following definitions apply to this subchapter:

(1) "Contract" means an agreement between the department and a contracting entity detailing the activities, compensation, products, term, and conditions that restrict or require certain actions during the life of the agreement.

(2) "Designated agent" means an entity that is designated in writing by a county to implement a project under this subchapter.

(3) "Network" means the Lake Monitoring and Protection Network established by the department under s. NR 193.73 which includes network participants and network cooperators.

(4) "Network cooperator" means an entity that enters into a contract or cooperative agreement with the department to provide cooperative network services as outlined under s. NR 193.74.

(5) "Network participant" means a person who volunteers or receives compensation to conduct network activities under s. NR 193.76 and meets the criteria established under s. NR 193.75.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20.

NR 193.72 Eligible network cooperators. (1) Eligible cooperators under this subchapter are limited to state or federal agencies, tribal governing bodies, and county governments, or their designated agents. Subject to approval by the department, counties and tribes may designate an agent to implement a project within their jurisdictional boundary. Agent designation shall be in writing on a form designated by the department and subject to department approval. A designated agent that is approved by the department may apply for a contract awarded under this subchapter. A county or tribe choosing to designate an agent shall submit such a request to the department for approval at least 60 days prior to the contract application deadline. A county or tribe may revoke an agent's designation for the subsequent agreement term by notifying the department in writing at any time.

(2) Eligible designated agents shall have all of the following:

(a) Experience with successful grant or contract administration in the last 10 years.

(b) A history of meeting or exceeding grant or contract performance and accountability standards.

(c) An established presence in the geographic area described in the application.

(d) The ability to provide evidence of their ability to competently perform the activities outlined under s. NR 193.74.

(e) Eligibility as a Surface Water Grant recipient under s. NR 193.02 (1).

Note: Applicant experience and history may be demonstrated through participation in grant programs outside of those covered under this chapter. Would-be applicants that lack grant experience and performance history are encouraged to apply for one or more of the other Surface Water Grant Programs outlined in this chapter.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20.

NR 193.73 Establishing the network. The department may establish and maintain a statewide Lake Monitoring and Protection Network by conducting any of the following activities:

(1) Providing protocols for conducting network activities.

(2) Registering and providing technical support to network coordinators and network participants.

(3) Allocating funds to support the Lake Monitoring and Protection Network, subject to the following:

(a) The total amount of funding for each fiscal year may not exceed 25% of the total amount appropriated under s. 20.370 (6) (ar), (as), and (av), Stats.

(b) The department's allocation plan will consider factors related to the need for network cooperative services provided under s. NR 193.75, including the quantity, type or condition of surface water resources, the amount of public access available, socioeconomic factors, or factors related to the presence or risk of spread of invasive species.

Note: The allocation plan will be published in guidance on the Surface Water Grant Program website.

(4) Annually assessing statewide lake monitoring and protection needs and entering into agreements with eligible cooperators to perform cooperative network services outlined in s. NR 193.75.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (3) (a) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.74 Network services. A network cooperator shall enter into an agreement with the department to assist with the operation and maintenance of the Lake Monitoring and Protection Network. The agreement will include specification of the services to be rendered and other expectations that apply during the life of the agreement. Network cooperative services that may be provided under an agreement created under this subchapter include any of the following:

(1) Training network participants and coordinating lake monitoring, aquatic invasive species monitoring, watercraft inspection, aquatic invasive species prevention programs, and entry of data into the department's statewide database.

Note: The department's statewide database is the Surface Water Integrated Monitoring System.

(2) Purchasing and distributing supplies and equipment necessary for network activities.

(3) Providing shipping and handling of samples and specimens.

(4) Entering data, using software or conducting other data management tasks necessary for managing network participants or tracking and reporting network activities.

(5) Analyzing, reporting, and disseminating reports and results.

(6) Providing technical assistance to a grantee or grant applicant for aquatic invasive species prevention and control.

(7) Coordinating communication among network participants.

(8) Increasing network coverage through education and outreach and expanding the capacity of network participants to conduct network activities.

(9) Conducting any network activity outlined under s. NR 193.76.

(10) Providing other services approved by the department.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20.

NR 193.75 Network participants. (1) QUALIFICATIONS. A network participant is a person who volunteers or receives compensation to conduct network activities listed under s. NR 193.76 and who meets all of the following qualifications:

(a) The person is approved by the department or by a network coordinator to be a network participant. The decision to approve a network participant may be conditional on available resources and department monitoring priorities. A prospective network participant may seek approval by any of the following:

1. Requesting participation in the citizen lake monitoring network from the water quality monitoring coordinator in writing, indicating the waterbody the participant is interested in monitoring and the type of monitoring the participant prefers to conduct, if applicable.

2. Requesting participation in the department-approved watercraft inspection program from the watercraft inspection coordinator in writing, indicating the waterbody the participant is interested in monitoring, if applicable.

3. Requesting participation in a capacity other than the foregoing from a network cooperator or the department in writing.

Note: The water quality monitoring and watercraft inspection coordinators are statewide positions funded by the department and located at the College of Natural Resources, University of Wisconsin, Stevens Point, WI 54481-3897. The coordinators can be contacted by phone at (715) 346-2116 or email at uwexlakes@uwsp.edu.

(b) The person is registered with the department as a network participant and, if responsible for managing data, is also registered as a user of the department's statewide database.

Note: The department's statewide database is the Surface Water Integrated Monitoring System.

(c) The person completes a department-approved training program for any network activities they are approved to carry out, including collecting, reporting, and interpreting water quality, aquatic invasive species, or watercraft inspection data.

(d) The person has completed a release of claims form 3200-101.

Note: Form 3200-101 will be provided by the department at the completion of training.

(2) RESTRICTIONS. The department may restrict network participants to include only those that satisfy the following conditions:

(a) Have access to the equipment necessary to carry out monitoring or prevention protocols.

(b) Have access to a computer with an internet connection capable of transmitting data.

(c) Have all safety equipment and training necessary to perform tasks in a safe manner.

(d) Meet performance and conduct standards that may be specified in the volunteer agreement or contract.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (1) (b), (d) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.76 Network activities. Network participants will implement established lake monitoring and protection programs or employ other program-approved protocols to monitor and protect lake ecosystems. Network activities include any of the following:

(1) Participating in the Citizen Lake Monitoring Network.

Note: The Citizen Lake Monitoring Network collects data on water clarity, quality, chemistry, temperature, dissolved oxygen, aquatic life and aquatic invasive species.

(2) Collecting and reporting other chemical, biological, or physical data on lakes and lake ecosystems, including data on water levels, lake ice extent and duration, aquatic life, and shoreline habitat conditions.

(3) Early detection monitoring for aquatic invasive species.

(4) Participating in a department-approved watercraft inspection program.

(5) Participating in the purple loosestrife biocontrol program.

(6) Participating in other aquatic invasive species prevention campaigns and lake protection activities as approved by the department.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20.

Subchapter VII — Land Acquisition

NR 193.80 Purpose. The purpose of this subchapter is to establish procedures for the administration of grants for the acquisition of property in fee simple or for conservation easements, if the purchase will substantially contribute to the protection or improvement of the water quality of a lake or river or its natural ecosystem, as authorized in s. 281.71, Stats.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20.

NR 193.81 Applicability. This subchapter applies to eligible recipients as defined in s. 281.69 (3) (a), Stats., and s. 281.70 (4) (a), Stats., that wish to apply for grants for the acquisition of property in fee simple or for a conservation easement to protect or improve lakes, rivers, and their ecosystems.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.82 Definitions. In addition to definitions provided in s. NR 193.03, the following definitions apply to this subchapter:

(1) “Baseline document” means a document prepared under s. NR 193.85 (4) to serve as an objective information baseline for monitoring compliance with the terms of the conservation easement funded with a grant awarded under this chapter.

(2) “Grantee acquisition match” means the dollar amount of the project cost not funded with a grant awarded under this subchapter.

(3) “Land management plan” means a management plan approved in writing by the department detailing how a property acquired with funds granted under this chapter shall be managed, maintained and made available to the public.

(4) “Parcel” means a tract of land.

(5) “Subject property” means the property proposed for acquisition and funded in part by a grant awarded under this subchapter.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20.

NR 193.83 Eligible and ineligible projects. (1) **ELIGIBLE PROJECTS.** The department may award grants under this subchapter to eligible applicants for any of the following projects:

(a) The fee simple acquisition of all rights of a property that will protect the water quality or ecosystems of a lake or river, if the negotiations between the grantee and landowner were conducted on a willing seller-willing buyer basis.

(b) The purchase of perpetual conservation easements for some of the rights of a property that will protect the water quality or ecosystems of a lake or river if the negotiations between the grantee and landowner were conducted on a willing seller-willing buyer basis.

(2) **INELIGIBLE PROJECTS.** The department may not award grants under this subchapter for ineligible acquisition projects, including any of the following:

(a) The acquisition of property that is subject to a reversionary right or that has restrictions or covenants that would prevent the property from being managed for purposes consistent with this subchapter.

(b) The acquisition of property through condemnation.

(c) The acquisition of property where the negotiations between the grantee and landowner were not conducted on a willing seller-willing buyer basis.

(d) The acquisition of property on which a dam is located.

(e) The acquisition of property acquired more than one year before a land acquisition grant application is submitted to the department.

(f) The acquisition of property for which an environmental inspection report shows that the property contains undesirable environmental conditions or liabilities or potential liability or hazards that are unacceptable to the department.

(g) Projects that do not provide for public access to the property, unless the department determines that restricting access is necessary to protect wild animals, plants, or other natural features.

(h) Relocation costs.

Note: Because the department requires willing seller-willing buyer negotiations, there is no use of eminent domain and there will be no need for relocation costs.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction in (1) (a), (b), (2) (a), (c), (g) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.84 Grantee acquisition match. (1) The grantee shall pay a grantee acquisition match for a grant awarded under this subchapter amounting to at least 25% of the total project cost using funds not provided by the department. The grantee shall confer with the department if the grantee acquisition match includes federal funds or other state funds to determine applicability as grantee match.

(2) Eligible sources of grantee acquisition match may include cash from the grantee; funds generated by local, non-department state or federal governments; grants or contributions from foundations, businesses, private individuals, or nonprofit organizations; property contributions from a third party if the contribution is made within 3 years of the acquisition of the property and is considered by the department to be eligible for a grant under the same program; property acquired by the grantee within 3 years of the acquisition if the property was not purchased with state funds and is considered by the department to be eligible for a grant under the same program; and property value donated by the property owner.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20.

NR 193.85 General grant conditions when land is acquired under this subchapter. In addition to the provisions specified in s. NR 193.13, the department may include conditions in a grant agreement related to any of the following:

(1) Maximum grant awards. Maximum grant awards may be found in Table 1 in s. NR 193.05.

(2) A requirement for the applicant to inform the landowner that the applicant may apply for a Surface Water Grant.

(3) A requirement that the applicant receive approval from the local unit of government or tribe in which the land is located before land acquisition can occur.

(4) A requirement for the grantee to prepare a land management plan.

(5) A requirement for the grantee to notify the department if land uses are different from those in place at the time the grant was awarded.

(6) The transfer of land ownership to the department if the grantee is dissolved or otherwise ceases to exist.

(7) Grantee property maintenance and management expectations.

(8) Limitations on a grantee’s ability to apply for future grants if the grantee is found to be in non-compliance.

(9) Public access requirements.

(10) A requirement that all other liens must subordinate to the department if grant funds are involved.

(11) Expectations that the grantee and subsequent owners manage the property in accordance with all applicable state, local and federal laws, rules and regulations.

(12) A requirement that a sign be placed on property to acknowledge state assistance and an expectation that the grantee provides and maintains proper signage.

Example: “This land was acquired in part with a Surface Water Grant provided by the Wisconsin Department of Natural Resources.”

(13) The expectation that a grantee will make a project site available for inspection by the department.

(14) The expectation that the grantee may not discriminate against any persons using or enjoying the property.

(15) The expectation that the grantee will record the grant agreement on the property title.

(16) Circumstances that constitute a violation of the grant agreement.

History: CR 19–078: cr. Register May 2020 No. 773, eff. 6–1–20; correction in (2) to (6), (10), (12) to (15) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.86 Additional conditions for conservation easements. When a conservation easement is being purchased with grant funds awarded under this subchapter, the department may include additional conditions in a grant agreement related to any of the following:

(1) A requirement that the grantee prepare a conservation easement.

Note: Copies of the department's easement standards and guidelines are available from the DNR, Bureau of Community Financial Assistance.

(2) Circumstances for land conversions.

(3) The expectation that the grantee will prepare a baseline document before grant reimbursement is issued.

(4) Monitoring requirements and enforcement measures for conservation easements.

History: CR 19–078: cr. Register May 2020 No. 773, eff. 6–1–20; correction in (1), (3) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.87 Grant calculation. (1) The department may award a grant under this subchapter for up to 75% of the total project costs, but the award amount may not exceed the maximum grant award amount per fee simple land or easement acquisition subprogram.

(2) (a) The grantee shall order and submit to the department an appraisal for fee simple or conservation easement projects, both for parcels to be purchased and parcels that will be used as grantee acquisition match. The grantee shall order appraisals in accordance with department guidelines, and the appraisals shall be subject to department review and approval. An appraisal ordered by the seller is unacceptable.

Note: The department's appraisal guidelines are available from the DNR, Bureau of Community Financial Assistance.

(b) The department may order a second appraisal if the property presents a difficult appraisal problem, if the first appraisal is unacceptable under department established criteria, or if the value of the parcel exceeds \$350,000. If only one appraisal is required for fee simple or easement land acquisition, the cost of the appraisal is grant eligible. If more than one appraisal is required, the cost of the first appraisal is entirely the responsibility of the applicants and is grant eligible; the cost of the second appraisal is entirely the responsibility of the department.

Note: The department encourages a grantee considering applying for grant funding for fee simple or conservation easement acquisition to contact the department before ordering an appraisal. Instructions provided to the appraiser will impact the scope and quality of the appraisal and, therefore, impact the grant award amount.

(3) In addition to items listed in s. NR 193.07, property donated to the grantee or purchased by the grantee without state funds may be used as a grantee acquisition match. All of the following conditions apply to donated property used as grantee acquisition match:

(a) The purchased or donated match property must also be eligible for grant funding under this subchapter.

(b) With approval of the department, a grantee may use a portion of the accepted appraised value of a donated property as part or all of the grantee acquisition match of the acquisition cost of the subject property. The value of contribution of property shall be determined by appraisal as specified in the department's appraisal guidelines.

(c) The amount that may be used for grantee acquisition match shall equal the fair market value as determined by the department

for an accepted appraisal. The grant payment may not exceed the amount of cash needed for the purchase. The value of the donated property not used as a grantee acquisition match in the original project may not be used by the grantee as a grantee acquisition match on any subsequent application under this chapter.

Example: Presume an applicant applies to protect a lake with a fee simple land acquisition funded with a land acquisition grant. Presume the property has a value of \$100,000 as determined by a department-approved appraisal. The Surface Water Grant Program requires a 25% grantee acquisition match, bringing the maximum grant award to \$75,000, with \$25,000 provided by the grantee. Presume further that the applicant will use a donated property as part of the grantee acquisition match. Presume the department-approved value of the donated property is \$70,000 and that miscellaneous eligible acquisition costs (including closing costs, attorney's fees and appraisal costs) amount to \$10,000. The maximum grant award for the proposed acquisition would be calculated as \$135,000. However, the applicant cannot receive a grant that exceeds amount of actual cash outlay. In this example, the actual cash outlay is the subject property value plus the eligible acquisition costs, so the maximum grant award is capped at \$110,000.

$$(\$100,000 + \$10,000 + \$70,000) \times 75\% = \$135,000$$

Maximum grant award capped at \$110,000

(d) Grantee acquisition match property shall be encumbered in perpetuity by a grant agreement and subject to the same conditions and restrictions that would encumber fee simple or conservation easement land acquired with a grant awarded under this chapter.

History: CR 19–078: cr. Register May 2020 No. 773, eff. 6–1–20; correction in (2) (a), (3) (c) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.88 Grant award. (1) The department shall use a grant agreement to award any funds under this subchapter. A grant agreement is not binding until signed by the department and the applicant and returned to the department by the specified deadline. Grant funds shall not be disbursed until the signed grant agreement is returned to the department. A grant application approved for funding by the department becomes part of the grant agreement by reference.

(2) A grant awarded under this subchapter may be terminated by the department for violation of any term or condition of the grant agreement. If the grant is terminated, any interest in or title to the property acquired with a grant under this chapter or property used as a grantee match to a grant awarded under this chapter shall vest in the state.

(3) When a grantee is making either a fee simple or conservation easement land acquisition purchase, the department may distribute 100% of the approved land value at escrow closing, up to the entire grant award amount, to a non-interest-bearing escrow account, subject to a department-approved title insurance commitment, to be released upon completion of an insured closing and conveyance of the property to the grantee. If the closing has not occurred within 15 days from the date when funds were distributed to the escrow account, the escrow agent shall return the grant funds to the department.

History: CR 19–078: cr. Register May 2020 No. 773, eff. 6–1–20; correction in (3) made under s. 35.17, Stats., Register May 2020 No. 773; correction in (3) made under s. 35.17, Stats., Register May 2020 No. 773.

NR 193.89 Grant agreements for acquisition projects. (1) In addition to any grant agreement conditions identified under s. NR 193.13, all of the following essential conditions shall be added to a grant agreement awarded under this subchapter:

(a) The grantee may not convert the property or allow it to be converted to any use other than that specified in the grant agreement without the prior written approval of the department.

(b) The grantee may not convey any interest in the property to a third party nor allow any leases, permits, or encumbrances without the prior written approval of the department. The department may take action necessary to avoid the placement of liens, judgments or encumbrances against the property.

(c) When a property transfer from the grantee to a third party is approved by the department, the party to whom the property is transferred shall be an eligible applicant under this chapter and

shall agree to assume the responsibilities and limitations of the terms and conditions of the grant agreement.

(d) The grantee must make property tax payments on time and keep taxes current unless property taxes are not required.

(e) The grantee may not close a property acquired with a grant awarded under this chapter to the public unless the department determines, and documents in writing, that closure is necessary to protect species of plants, wild animals, or other natural features.

(f) The grantee shall manage the property in accordance with the land management plan approved by the department.

(2) The grant agreement shall recognize the state's interest in the property acquired by the grantee, for both the subject property and donated match property when applicable, and ensure that the grantee provides adequate land management and maintenance, or, in the case of easements, monitors and enforces the conditions of the easement, in accordance with provisions contained in the grant agreement and in a land management plan approved by the department. The grantee shall declare the state's interest in the property on the warranty deed or other appropriate instrument of conveyance recorded in the appropriate county register of deeds office, using language provided by the department. The grant

agreement shall be recorded in the office of the register of deeds in the appropriate county.

(3) All obligations, terms, conditions and restrictions imposed by the grant agreement shall be deemed to be covenants and restrictions running with the property and shall be effective limitations on the use of the property from the date of recording of the grant agreement and shall bind the grantee and all successors and assigns in perpetuity.

(4) The department may include additional conditions and restrictions in the grant agreement.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20.

NR 193.90 Conversions. If a grantee converts property to an inconsistent use not approved by the department, the grantee shall return the property to the use specified in the grant agreement within 6 months of written notification of the inconsistent use by the department or the grantee shall replace the property with a different property that is approved by the department. The department's approval of replacement property shall include consideration of at least equal value, acreage, and benefit consistent with the Surface Water Grant Program for which funding was originally approved.

History: CR 19-078: cr. Register May 2020 No. 773, eff. 6-1-20; correction made under s. 35.17, Stats., Register May 2020 No. 773.