

Chapter NR 110

SEWERAGE SYSTEMS

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History: Chapter NR 110 as it existed on November 30, 1974 was repealed and a new chapter NR 110 was created effective December 1, 1974.

NR 110.01 Applicability. This chapter is applicable to all new or modified sewerage systems, excluding only industrial waste treatment facilities. This chapter also applies to sewerage systems employing land disposal of sewage effluent, except those systems defined as plumbing within the purview of section 145.01 (1) (b), Wis. Stats.

Note: The authority to enact these rules is contained in chapter 144, Wis. Stats. Pursuant to section 144.57, Wis. Stats., any person who violates this chapter shall forfeit not less than \$10 nor more than \$5,000 for each violation. Each day of continued violation is a separate offense.

History: Cr. Register, November, 1974, No. 227, eff. 12-1-74.

NR 110.02 Severability. Should any section, paragraph, phrase, sentence, clause or word of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

History: Cr. Register, November, 1974, No. 227, eff. 12-1-74.

NR 110.03 Definitions. The definitions in this section shall apply whenever the listed terms are used in this chapter.

(1) "Approval" means the written approval of the department for any project requiring approval pursuant to section 144.04, Wis. Stats., and NR 108.03, Wis. Adm. Code.

(2) "Cost-effective" means the least cost waste treatment alternative which will result in the attainment of applicable water quality standards, effluent limitations, or other treatment standards.

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

(4) "Owner" means the state, county, town, town sanitary district, city, village, firm, company, institution, association, utility district, school district, metropolitan sewerage district, or individual owning or operating a sewerage system.

(5) "Sewerage system" means all structures, conduits and pipes, including sewage treatment facilities, by which sewage is collected and disposed of, except plumbing inside and in connection with buildings served, and service pipes, from building to street main.

(6) "Reviewable project" shall have the same meaning as set forth in NR 108.02 (6), Wis. Adm. Code.

(7) "Excess clear water" means that quantity of clear water that can be economically eliminated from a sewer system by rehabilitation. This quantity is determined by a cost-effectiveness analysis that compares the cost of eliminating the excess clear water with the cost of increasing the capacity of the sewerage system, including the treatment works' capacity, to provide the required level of treatment for the entire wastewater load, including the clear water.

(8) Abbreviations. The following abbreviations are used in this chapter:

(a) The abbreviation "A.S.T.M." means the American Society for Testing and Material, 1916 Race Street, Philadelphia, Pennsylvania, 19103;

(b) The abbreviation "A.W.W.A." means the American Water Works Association, 6666 West Quincy Avenue, Denver, Colorado, 80235;

(c) The abbreviation "A.A.S.H.O." means the American Association of State Highway Officials, 341 National Press Building, Washington, D.C., 20004;

(d) The abbreviation "A.S.C.E." means the American Society of Civil Engineers, 33 West 39th Street, New York, New York.

History: Cr. Register, November, 1974, No. 227, eff. 12-1-74.

NR 110.04 Alternative requirements. (1) If the owner of a proposed reviewable project feels that compliance with the design requirements of this chapter is impracticable, the reasons therefore shall be fully communicated in writing to the department prior to the submission of final plans. This communication must set forth alternative requirements for which department approval is sought and all pertinent facts, data, reports and studies supporting the imposition of such alternative requirements.

(2) If the department determines that compliance with the design requirements of this chapter would be impracticable in specific cases, it may approve alternative requirements which, in its opinion, are in substantial compliance with the requirements of this chapter.

History: Cr. Register, November, 1974, No. 227, eff. 12-1-74.

NR 110.05 Sewer extensions. (1) Requests for approvals for extension of sanitary sewers to serve subdivisions, commercial establishments, institutional facilities and industrial plants shall be denied if:

(a) An organic or hydraulic overload exists at the sewage treatment plant;

(b) The sewer system to which the connection would be tributary is inadequate to carry existing dry weather flows; or

(c) The additional connections to the sewerage system created by such extension would result in overloading of the sewers or the treatment plant.

(1m) The bypassing of sewage within the sewer system or at the treatment plant or the inability of the treatment plant to produce

an effluent in compliance with limitations established in the applicable Wisconsin pollutant discharge elimination system (WPDES) permit issued under chapter 147, Wis. Stats., in the existing system or in the system were such extension made, shall cause such denial.

(2) Variances from the requirements under subsection (1) may be granted if it is determined that:

(a) Construction of the subdivision, commercial establishment, institutional facility or industrial plant had commenced prior to the effective date of this subsection, as evidenced by the issuance of a necessary building permit, provided placement of the foundation or other like structure commences within 6 months after the effective date of this subsection;

(b) The area to be served was developed prior to the effective date of this subsection and existing inadequate private waste disposal systems pose a substantial threat to the public health or safety; or

(c) The applicant submits an acceptable schedule for increased sewerage system capacity or load reduction, which is designed to prevent such overload from occurring when such extension is made; provided that the variance shall be voided if the applicant fails to adhere to such approved schedule.

(3) Variances from the requirements under subsection (1) may be granted by the natural resources board, after notice and hearing, for sewer extensions, otherwise prohibited by this section, where there is shown to be a compelling public need or other extraordinary circumstance as determined by the board.

History: Cr. Register, November, 1974, No. 227, eff. 12-1-74.

NR 110.06 Plans for reviewable projects. (1) All plans for reviewable projects submitted to the department shall be in accordance with chapter NR 108 and shall bear a suitable title block which includes the name of the owner, the scale and the date. The north point shall be shown on each plan. All plans shall be clear and legible. Blueprints will not be accepted. The datum used shall be indicated and shall be related to U.S.G.S. datum.

(2) Detailed construction plans shall contain appropriate plan views, elevations, necessary sections and supplemental views which together with the specifications provide all necessary information for construction of the project. Manufacturers' drawings shall not be accepted.

(3) All plans shall be in conformance with an approved engineering report as required in NR 110.08, Wis. Adm. Code.

Note: Applicable state and local codes, including those of the department of industry, labor and human relations, the public service commission and the department of health and social services, should be consulted for other requirements.

History: Cr. Register, November, 1974, No. 227, eff. 12-1-74.

NR 110.07 Specifications for reviewable projects. Complete technical specifications for all reviewable projects shall accompany the plans. Where applicable, the specifications shall generally contain a plan for maintaining the same degree of treatment during construction as that which existed prior to the start of construction. The specifications accompanying the detailed construction drawings shall include, wherever applicable:

(1) All construction information not shown on the plans;

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- (2) The complete requirements for all mechanical and electrical equipment;
- (3) The type and operating characteristics of all equipment;
- (4) The laboratory fixtures and equipment;
- (5) The construction materials to be used;
- (6) The identification of the chemicals to be used;
- (7) The instructions for testing materials and equipment to meet design standards; and
- (8) The operating tests for the complete treatment plant and component units.

Note: Specifications reproduced from manufacturers' data and bearing the manufacturers' labels will not be accepted.

History: Cr. Register, November, 1974, No. 227, eff. 12-1-74.

NR 110.08 Engineering reports for reviewable projects. (1) **APPLICABILITY.** An engineering report shall be included with each reviewable project submitted to the department for approval.

(2) **CONTENT.** The engineering report shall contain, in a form for convenient and permanent reference, the controlling assumptions made and the factors used in the functional design of the sewerage system as a whole and of each of the component units. The engineering report shall make reference to applicable effluent limitations or applicable basin, metropolitan, areawide and facility water quality management plans and shall clearly indicate how the proposed project is in conformance with such requirements or plans. When applicable, the engineering report shall meet the appropriate federal requirements for facility plans. Engineering reports submitted pursuant to this section shall contain all of the following information, wherever applicable:

- (a) *Description.* A brief description of the project;
- (b) *Location.* A description of the geographic location of the project, including any necessary reference maps or exhibits. Specific locations of existing and proposed sewerage facilities shall also be included;
- (c) *Topography.* A brief description of the topography of the general area with specific reference to the area involved in the project;
- (d) *Population.* Past census data and estimated future population projected to the design year for the area involved in the project;
- (e) *Soil investigations.* A description of the extent of soil investigations, including information on rock likely to be encountered. In addition, that portion of the project which is below high groundwater level shall be indicated. Soil boring information shall be submitted where lagoons are considered as part of the sewage treatment scheme;
- (f) *Flooding.* A designation of any areas of the project which are located within a floodway or a floodplain as defined in chapter NR 116. All projects shall conform to the requirements of chapter NR 116;
- (g) *Implementation capability.* A brief statement demonstrating that the owner who will be implementing the project will have the necessary legal, financial, institutional and managerial resources available to insure the construction, operation, and maintenance of the proposed treatment works;

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by the department of the final detailed construction plans and specifications.

(g) The portion of a project which receives a grant under chapter NR 127, Wis. Adm. Code.

(h) Maintenance, administrative, operational and garage facilities for sewer systems.

(i) A project not competitively bid in accordance with chapters 59, 60, 61, 62 and 66, Wis. Stats.

(j) The laterals (both pressure and gravity) from the public street property line to the building.

History: Cr. Register, July, 1976, No. 247, eff. 8-1-76.

NR 125.04 Eligible costs. (1) **PRELIMINARY PLANNING.** Costs of studies, investigations, surveys, planning and other steps necessary to determine the economic and engineering feasibility of a proposed project are eligible.

(2) **ENGINEERING, ARCHITECTURAL, INSPECTION AND OTHER FEES FOR TECHNICAL SERVICES.** Costs of services include preparation of preliminary and final engineering reports, design of facilities, preparation of plans and specifications, inspection and supervision of construction and any other services necessary for the construction of the project. Where technical services are provided by regularly employed persons of a municipality, actual documented applicable costs are allowable, provided they do not exceed costs determined by the department to be reasonable if the work were performed by a consulting engineer on a fee basis. Technical service costs for study of sewer infiltration-inflow problems performed in accordance with requirements of the federal grant program (P.L. 92-500) are allowable.

(3) **LEGAL AND FISCAL COSTS.** Reasonable fees and expenses based on actual records for legal services rendered in connection with the construction of the project are eligible provided that they are documented. Reasonable costs incurred in the development of the information necessary for the bond issue, including preparation of the prospectus, bond advertising, printing of bonds and other similar costs are eligible. When bond counsel and attorney fees cover all the steps from the drafting of the bond resolution through the final sale of the bonds, no additional financing costs are eligible.

(4) **CONSTRUCTION COSTS.** Construction costs incurred under competitively bid contracts or actual cost of labor and competitively purchased equipment and materials incurred under force account procedures consistent with the provisions of chapters 59, 60, 61, 62 and 66, Wis. Stats., are eligible.

(5) **REPAIR OF ROADS, STREETS, SIDEWALKS, CURBS AND GUTTERS, ETC.** These costs shall be limited to the costs of repair or replacing in kind the areas damaged (by the construction of eligible facilities) to the same condition, quality, type and dimensions as that which existed before the construction of the eligible facilities. The eligible cost shall be the most cost effective repair or replacement in terms of the initial capital cost. Higher incremental replacement costs to reduce future maintenance or operation costs are not eligible. The width of the

eligible repaired area shall not be greater than that of the top width of the sewer trench unless it can be demonstrated that it is less expensive to remove and replace the entire width of road pavement. Eligible costs of replacement of badly deteriorated road pavements shall be limited to that of the least expensive all weather road pavement regardless of the type of original material. Where the replaced item is better than the original item, the eligible cost shall be limited to a pro rata share of the replacement cost.

History: Cr. Register, July, 1976, No. 247, eff. 8-1-76.

NR 125.05 Costs not eligible. The following costs are not allowable for state participation:

(1) **INELIGIBLE WORK.** The cost of any work not included in the eligible portion of the project as approved by the department.

(2) **COST OF SITE.** The cost of the site or easements or any estate or interest therein, and any cost associated with the survey or acquisition thereof.

(3) **REBATES, REFUNDS, TAX EXEMPTIONS.** Any costs exceeding the actual net cost of materials or services are not eligible. A rebate or refund received from a firm or individual is not an allowable project cost. Where municipalities are exempt from the payment of sales taxes and excise taxes, such taxes are not an allowable cost.

(4) **FEE NOT RELATED TO CONSTRUCTION.** Any portion of a fee which covers services performed in staffing of the facility, training of personnel or other functions not directly related to the actual construction of the project.

(5) **ADMINISTRATIVE COSTS.** Costs such as office space, telephone service and municipal personnel, including accountants, bookkeepers and clerks except as allowed by NR 125.04(2).

(6) **LEGAL SERVICES.** Costs of legal services rendered in connection with ineligible parts of the projects, such as acquisition of site or easements.

(7) **INTEREST.** Interest on bonds (including discounts below par) or any other form of indebtedness.

(8) **DAMAGE AWARDS.** Damage awards arising out of the construction, equipping or operation of the project, whether such awards are determined by judicial procedure, arbitration, negotiation or otherwise.

(9) **BONUS PAYMENTS.** Bonus payments made by the applicant to the contractor for completing work in advance of a specified time.

(10) **COST IN EXCESS OF BID PRICE.** When a bid is rejected and later reinstated in the contract, its eligible cost may not exceed the original bid price.

(11) **NORMAL GOVERNMENT COSTS.** Costs incident to normal operating costs of government such as bond election costs and salaries and expenses of statutory governmental officials such as the mayor, city manager, city council members, etc.

(12) **UNNECESSARY OR UNREASONABLE COSTS.** Any costs found by the department to be unreasonable or unnecessary to construction of the approved eligible project.

(13) **OPERATION AND MAINTENANCE.** The costs of operation, maintenance or administration or replacement in kind of equipment or facilities.

(14) **COSTS INCURRED PRIOR TO AUGUST 1, 1966.** Costs for any purpose paid prior to or work covered by construction contracts awarded prior to August 1, 1966, the date on which the first appropriation for state grants for construction of water pollution abatement projects under the State Water Resources Act was authorized.

(15) **COSTS.** The portion of the costs of the sewage treatment plant that is allocable for the treatment of industrial wastes to be determined as the average of the percent of design flow, design BOD, and design total suspended solids for industrial waste treatment as compared to the total design capacity of the sewage treatment plant.

(16) **COSTS.** The portion of the costs of the sewer greater than the minimum allowable 8 inch diameter allocable for the conveyance of industrial wastes to be determined as the percent of industrial waste flow to the design flow of the sewer.

History: Cr. Register, July, 1976, No. 247, eff. 8-1-76.

NR 125.06 Preliminary project evaluation. Municipalities desiring a preliminary priority rating and eligibility determination made for a project, prior to the submission of an application or plans and specifications, may submit such a request with accompanying documents or such alternative information as is needed for eligibility and priority determinations, in NR 125.07 (1) (b), (c) and (f). The department will review the project and notify the applicant of the priority rating and eligibility and when the grant may be available, conditioned upon the availability of funds, the prompt submission of the completed application and the approval of the final detailed approvable construction plans and specifications. However, the project will not be placed on the priority list until final detailed approvable construction plans and specifications and the complete grant application are submitted to the department.

History: Cr. Register, July, 1976, No. 247, eff. 8-1-76.

NR 125.07 Grant applications. (1) **APPLICATION FORMS.** Municipalities shall submit applications in accordance with instructions and on forms supplied by the department. Applications shall be updated by the applicant as necessary to keep the information current.

(2) **DOCUMENTS TO ACCOMPANY APPLICATIONS.** (a) Municipalities shall submit certified copy of the recent authorization by the applicant's governing body authorizing the filing of the application and appointing a municipal official as the authorized representative.

(b) Description of project, including maps and/or layouts.

(c) Engineering reports that are up to date containing information as outlined in NR 110.08, Wis. Adm. Code.

(d) Final approvable project plans and specifications as described in chapters NR 108 and 110 unless they have been previously submitted to or approved by the department.

(e) Contracts or agreements applicable to engineering and other technical services, and legal services and other information concerning the basis upon which fees or costs for such services were determined.

(f) An itemized estimate of construction costs, or bid tabulation, if available.

(g) If the site has been acquired, a copy of the site title opinion showing municipal ownership and description of the site which has been acquired.

(h) If the site has not been acquired, a statement of the nature and extent of interest in lands which are to be acquired and the proposed method and time required for acquisition. Specify statutory requirements and authority affecting acquisition procedures shall be specified.

(i) If the project is in an area served by a regional or county planning agency, that agency's evaluation and comment on conformance of the project with the comprehensive plan developed or in process of development for the metropolitan or regional area.

(j) An environmental assessment which meets the requirements of the Wisconsin Environmental Policy Act, section 1.11, Wis. Stats., and which includes an evaluation of feasible alternatives and provides clear justification for selecting a particular course of action based on monetary, environmental and other considerations. (The assessment shall be available for public information and public participation in evaluation of the project.) Projects under construction prior to 4-30-72 do not require an environmental assessment.

(k) Adequate analysis and data establishing that the works or modification is the most cost efficient method of meeting the limitations and standards required of the facility.

(l) A dated statement, signed by the authorized municipal representative, the municipal attorney, and the engineer as to whether the municipality has all the necessary public easements and rights-of-way, and all construction will take place only on public easements or rights-of-way.

(m) A dated statement, signed by the authorized municipal representative and the consulting engineer, as to whether any sewer laterals are to be installed on private property under any contracts of this project.

(n) Other information as required to determine the eligibility of a project or to determine the eligible costs.

History: Cr. Register, July, 1976, No. 247, eff. 8-1-76.

NR 125.08 Departmental processing of applications. (1) **PROJECT NUMBER ASSIGNMENT.** Upon receipt of an application, the department will assign a project number in chronological order of receipt. The project number will be used on all documents and correspondence relating to the project.

(2) **INITIAL REVIEW.** The department will review the application and accompanying supporting documents in sufficient detail to assure completeness and whether the proposed project is eligible as pursuant to NR 125.03. Applications which are incomplete may be returned to the applicant for the appropriate information. Applicants having projects which are determined to be ineligible will be notified of such determination.

(3) **OBSOLETE APPLICATIONS.** The application and supporting materials must be current and correct before the project can be placed on the priority list or before the state grant offer can be made. Generally information that is more than one year old is considered out of date and must be resubmitted or recertified as being up to date.

History: Cr. Register, July, 1976, No. 247, eff. 8-1-76.

NR 125.09 Priority designation. (1) **POINT RATING SYSTEM.** In ranking projects for priority for grants, the following factors will be considered:

(a) Pollution control needs and health hazards of existing conditions affecting water uses:

<u>Uses Affected</u>	<u>Points</u>
Public or other domestic water supply*	70
Recreation or public health	65
Wildlife and stock watering	60
Industrial water supply	55
Other	50

* This includes water supplies for food processing, pharmaceutical and such other industries from which the product will be used for human consumption and private water supplies in areas of adverse soil conditions.

(b) **Financial capacity.** A combined maximum of 30 points is assigned to these three measures of financial capacity and will be computed in accordance with the following table:

Points Applicable to Per Capita Income % of Each Column State Average*	Project Cost Dollars Per Capita Based on Current Population	Local Share of Project Cost Plus Current Long- Term Nonschool Indebtedness as a Percent of Statutory Limitation Based on Equalized Valuation
1	Over 135%	\$ 1 - 200 Less than 10%
2	100 to less than 135	201 - 400 10% to less than 20%
3	89 to less than 100	401 - 600 20% to less than 30%
4	80 to less than 89	601 - 800 30% to less than 40%
5	72 to less than 80	801 - 1,000 40% to less than 50%
6	65 to less than 72	1,001 - 1,200 50% to less than 60%
7	59 to less than 65	1,201 - 1,400 60% to less than 70%
8	54 to less than 59	1,401 - 1,600 70% to less than 80%
9	50 to less than 54	1,601 - 1,800 80% to less than 90%
10	Less than 50	Over 1,800 90% to less than 100%

* Based on the most recent Wisconsin department of revenue publications, "Long Term Indebtedness of Wisconsin Political Subdivisions" and "Taxes, Aids and Shared Taxes" and confirmation of its applicability by department investigation.

(2) **PROJECT PRIORITY.** Projects shall be rated for priority for grants in descending order of the sum of the points (maximum possible points: 100). In case of a tie in the priority ranking, the project with final detailed approvable construction plans received at the earlier date shall be given the higher rating.

History: Cr. Register, July, 1976, No. 247, eff. 8-1-76.

NR 125.10 Priority ranking and notice of funding allocation. (1) Priority ranking of projects for funding. (a) During January and July, all pending complete grant applications (for which final approvable construction plans and specifications meeting chapters NR 108 and 110 have been approved by the department) and for which the nonstate portion of the financing is available will be evaluated in accordance with NR 125.09 to determine the priority ranking of the projects if there are more such projects than can be funded with the available funds.

(b) At that time, if the department determines that the estimated cost of these projects for which grant applications are pending exceeds the grant funds available under this program, the department shall notify all affected applicants that construction grants shall be awarded on the basis of the priority ranking of the projects in accordance with NR 125.09.

(c) If the department determines that sufficient funds exist to provide a construction grant for all projects, on the project priority ranking list, the grant offers will be made in accordance with NR 125.11 in the order in which the projects are placed under construction.

(2) **NOTICE OF FUNDING ALLOCATION.** The department will determine which projects, in accordance with the priority list, can be funded with the available funds and notify the respective applicants of this. If the project has not already been bid the applicant will be advised to bid the project within 60 days after state plan approval and submit the results to the department so that a formal grant offer can be extended to the applicant. Failure of the applicant to bid the entire project within 60 days and to promptly execute all eligible construction contracts will result in the project not being considered again until funds are available and one priority deadline has elapsed.

History: Cr. Register, July, 1976, No. 247, eff. 8-1-76.

NR 125.11 Offer and acceptance. (1) **GRANT OFFER.** (a) No grant offer shall be made for any project unless such project conforms with all department requirements and has been determined by the department as entitled to priority over other eligible projects. All grant offers shall be made to a municipality (see NR 125.02(2)) on forms prepared by the department. The grant offer shall be signed by the authorized representative of the department and will set forth the terms and conditions of the offer.

(b) All grant offers shall be made only after the grant application is complete and the department has approved all the project construction plans and specifications, all the bidding information and all of the proposed contract awards in accordance with this code. If all the contracts are not signed by both the municipality and the contractors

within 30 days of the grant offer, the grant offer shall become null and void.

(c) If a municipality receives a grant under section 144.23, Wis. Stats., it cannot receive or retain a grant under section 144.21, Wis. Stats., for that same portion of the project.

(d) A municipality can receive a grant under section 144.21 for one portion of an eligible project and a grant under section 144.23 for different portion of that same eligible project. If a priority ranking conflict develops, the ranking under section 144.23 shall govern the award of the grants.

(2) **AMOUNT OF GRANT OFFER.** A state grant shall not exceed 25% of the eligible costs of an approved project. The state grant plus grants from other nonlocal sources shall not exceed 80% of the eligible project costs, except that if a project receives a 75% federal grant under P.L. 92-500 as amended, it may receive a 15% state grant for that portion of the project which provides required advanced or tertiary treatment to meet state or federal water quality standards or orders or permits.

(3) **ACCEPTANCE OF GRANT OFFER.** If the recipient of a grant offer agrees to the terms and conditions thereof, acceptance shall be effected by signature of the authorized representative of the municipality in the designated place on all copies of the Offer and Acceptance Form. Two signed copies of the form shall be returned to the department with a certified copy of a resolution by the municipality's governing body accepting the grant offer and authorizing their representative to accept the grant offer. The offer must be accepted within 45 days from the date of offer or it will be withdrawn and the funds will be obligated to another applicant.

History: Cr. Register, July, 1976, No. 247, eff. 8-1-76.

NR 125.12 Payment procedure. (1) **PARTIAL PAYMENTS.** Partial payments will be made after inspection at the 25, 50, and 75% stages of completion of the project. Payments shall not exceed 90% of the grant offer prior to final inspection and auditing.

(2) **FINAL PAYMENT.** Final payment will be made only after the project is fully functional and final inspection and audit and evidence of satisfactory operation and maintenance. The total state grant will be based on the final audited eligible costs.

History: Cr. Register, July, 1976, No. 247, eff. 8-1-76.

NR 125.13 Severability. If any section, paragraph, phrase, sentence or clause of this chapter is invalid or unconstitutional, the remainder of this chapter shall not be affected thereby.

History: Cr. Register, July, 1976, No. 247, eff. 8-1-76.