

DEPARTMENT OF NATURAL RESOURCES 495  
NR 124

- (d) Connection to a municipal sewage treatment works;
- (e) Installation of a small sewage treatment plant with a surface discharge;
- (f) Installation of a private sewage system to replace a privy;
- (g) Installation of an experimental private sewage system which is approved under s. 145.02 (3), Stats.

History: Cr. Register, May, 1985, No. 353, eff. 6-1-85.

**NR 124.06 Evidence of income.** (1) **GENERAL.** In order to be eligible to receive grant assistance under this chapter, the owner of a failing private sewage system shall submit satisfactory evidence of income to the participating governmental unit as required under s. 144.245 (5) (c) 3. or (d) 3., Stats.

(a) *Principal residence.* The person who owns a principal residence shall submit a copy of his or her federal income tax return for the taxable year prior to the year of the enforcement order and, if married and filing separately, a copy of his or her spouse's federal income tax return for that year.

(b) *Small commercial establishment.* The business which owns a small commercial establishment shall submit a copy of the business' federal income tax return for the taxable year prior to the year of the enforcement order.

(2) **ALTERNATE EVIDENCE OF INCOME.** A participating governmental unit may disregard the evidence of income under sub. (1) and consider the following criteria as satisfactory evidence of income in the year the enforcement order was issued.

(a) A copy of the owner's federal income tax return for the taxable year in which the enforcement order was issued and, if married and filing separately, a copy of the owner's spouse's federal income tax return for that year; or

(b) In conjunction with the evidence of income required under sub. (1), an affidavit from the owner. The affidavit shall state the reason that a reduction in taxable income or adjusted gross income is expected in the current year, the estimated amount of that reduction, and a complete listing of total income and deductible expenses since January 1 of the current year; or

(c) Proof of tax exempt status as a private nonprofit corporation; or

(d) An affidavit from the owner stating that he or she was not required to file a return in the year prior to the year of the enforcement order because of insufficient taxable income.

History: Cr. Register, May, 1985, No. 353, eff. 6-1-85.

**NR 124.07 Application.** (1) The governmental unit shall review information received from property owners and determine those who are eligible under s. 144.245, Stats., and this chapter. In order to receive an allocation and grant award, the governmental unit shall prepare and submit

an application to the department. The application shall be on forms supplied by the department.

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

(2) Governmental units may request preapplication assistance including technical assistance from the department.

(3) Applications must be received by the department no later than June 30 for consideration in the next fiscal year.

(4) An application for a grant to replace or rehabilitate private sewage systems shall include:

(a) Certified copies of the following resolutions of the governing body of the governmental unit:

1. A resolution designating an authorized representative, and authorizing such representative to apply for a grant under s. 144.245, Stats., and this chapter on behalf of the governmental unit. The authorized representative shall be an official or employe of the governmental unit.

2. A resolution certifying that grants will be used for private sewage system rehabilitation or replacement for a principal residence or small commercial establishment owned by a person who meets the eligibility requirements of s. 144.245 (5), Stats., that the funds will be used as provided under s. 144.245 (6), Stats., and that the maximum state share will not exceed the amount permitted under s. 144.245 (7), Stats.

3. A resolution certifying that grants will be used for private sewage systems which will be properly installed and maintained.

4. A resolution certifying that grants provided to the governmental unit will be disbursed to eligible owners.

5. A resolution which establishes a system for the equitable distribution of grant funds received among the owners of eligible private sewage systems in the governmental unit. This system shall be based on eligibility criteria established under s. 144.245 (5), Stats., and shall provide that eligible owners of private sewage systems who are denied grants in one fiscal year receive first priority in the next fiscal year.

(b) Documentation of an approvable regulatory program to insure proper installation and maintenance of all new or replacement private sewage systems constructed in that governmental unit. An approvable regulatory program must include the following:

1. Adoption of an ordinance which specifically requires compliance with the maintenance program set forth in subd. 4. and which specifically grants enforcement authority.

2. A system for providing written notice of the maintenance program requirements to each applicant for a sanitary permit at the time of application.

3. An inspection program, which includes at least one inspection during installation of a system.

4. A maintenance program which requires inspection of all new or replacement private sewage systems at least once every 3 years. The owner

of a system subject to the maintenance program must be required to submit to the governmental unit county a certification form (to be provided by the governmental unit) every 3 years, signed by the owner and signed by a master plumber, a journeyman plumber or restricted plumber licensed under ch. 145, Stats., a person licensed under s. 146.20, Stats., or by an employe of the governmental unit or state designated by the department, who has inspected the system. The form shall require certification that the system is in proper operating condition, and that after inspection, and pumping if necessary, the septic or holding tank is less than 1/3 full of sludge and scum.

5. A central record keeping system.

6. Where considered appropriate by the governmental unit, a system of user charges and cost recovery which assures that each recipient of service under this program will pay a proportionate share of the costs. User charges and cost recovery may include the cost of the grant application fee and the cost of supervising installation and maintenance.

(c) A list of property owners approved as eligible by the participating governmental unit. The list shall include the name of each owner, the name of the town or municipality in which the private sewage system is located, the uniform sanitary permit number and the maximum state grant share determined under s. NR 124.05.

(d) Other information as requested by the department.

History: Cr. Register, May, 1985, No. 353, eff. 6-1-85.

**NR 124.08 Allocation of funds and grant awards.** (1) **GENERAL.** At the beginning of each fiscal year the department shall allocate funds available for grants to each participating governmental unit according to the number of property owners listed in its application and certified as eligible by that governmental unit.

(2) **PRORATION FACTOR.** The department shall calculate a proration factor for determining allocations in each fiscal year. The proration factor shall be equal to the total amount of funds available for grants under this chapter divided by the total number of property owners certified as eligible by all participating governmental units.

Example: If \$2,500,000 is available for grants in a fiscal year, and the total number of eligible property owners is 1,700, the proration factor for that fiscal year is equal to:

$$\frac{\$2,500,000}{1,700} = \underline{\$1,470.}$$

(3) **AMOUNT OF ALLOCATION.** The allocation for each participating governmental unit shall be equal to the proration factor for that fiscal year times the number of property owners certified as eligible by that participating governmental unit in its application.

Example: If the proration factor is 1,470 the allocation for a county which has 70 eligible property owners is equal to:  $\$1,470 \times 70 = \underline{\$102,900.}$

(4) **GRANT AWARDS AND AMENDMENTS.** The department may award grants to a participating governmental unit up to the amount allocated under sub. (3). If the allocation under sub. (3) is larger than the total maximum state share requested in its application, the participating gov-

ernmental unit may amend its application during the fiscal year to include additional eligible property owners. Requests for amendments shall be received by the department at least 30 days prior to the end of the fiscal year.

(5) **REVISION OF ALLOCATION OR AWARD.** (a) If the department finds that a property owner listed in the application of a governmental unit does not meet the eligibility requirements under s. 144.245 (5), Stats., the department may reduce an allocation to the governmental unit in the current or in a following fiscal year. For each ineligible owner the amount of funds withheld from the allocation shall be equal to the proration factor for each year the ineligible owner was listed in the governmental unit's application.

(b) The department may withhold funds allocated to a governmental unit and initiate enforcement under s. NR 124.10, if a governmental unit does not meet the conditions specified under s. 144.245 (9), Stats.

(c) The department may reallocate any withheld or recovered funds in the following fiscal year.

History: Cr. Register, May, 1985, No. 353, eff. 6-1-85.

**NR 124.09 Payments.** (1) Grant payments shall be made to the participating governmental unit which shall be responsible for disbursing all funds received from the department for the purposes for which the grant award was made.

(2) A participating governmental unit shall request payment on forms provided by the department and shall include such information as required by the department to document satisfactory completion of eligible work. Payments shall be requested in accordance with the payment schedule included in the grant award conditions.

(3) The total grant amount payable to a participating governmental unit is limited to the amount of funds awarded to the participating governmental unit under this chapter. The specific grant amounts for individual owners of private sewage systems are limited to the maximum state share under s. NR 124.05. Payment based on a prorated grant amount shall constitute a complete payment for that individual.

(4) At any time before final payment of the grant, the department may review and audit any request for payment. Based on the review or audit, any payment may be reduced for prior overpayment or increased for prior underpayment.

(5) The participating governmental unit shall return to the department any funds, including any interest derived therefrom, received under this chapter which are not disbursed to eligible owners.

(6) The department may authorize the withholding of a grant payment where it determines in writing that a participating governmental unit has failed to comply with project objectives, grant award conditions, or reporting requirements. Such withholding shall be limited to only that amount necessary to assure compliance.

(7) The department shall withhold payment to the extent of any indebtedness of the participating governmental unit to the state of Wisconsin, unless it determines that collection of the indebtedness will im-

pair accomplishment of the project objectives and that continuation of the project is in the best interest of the state of Wisconsin.

History: Cr. Register, May, 1985, No. 353, eff. 6-1-85.

**NR 124.10 Enforcement.** If the department has reason to believe that a violation of the provisions of this chapter or of any grant or grant amendment made under this chapter has occurred, the department may take action as follows:

(1) Under s. 144.245 (14), Stats., the department may cause written notice to be served upon the alleged violator, and in conjunction with that notice:

(a) Issue an order that corrective action be taken by the alleged violator within a reasonable time, or;

(b) Require that the alleged violator appear before the department for a hearing, to answer the charges that a violation has occurred.

(2) Under s. 144.98, Stats., the department may terminate or annul a grant made under this section and seek recovery of some or all grant funds previously paid to the participating governmental unit, if an order issued under s. 144.245 (14), Stats., is violated.

(3) Under s. 144.245 (14) (d), Stats., the department may suspend or terminate additional grants made under this chapter if the department finds that a private sewage system previously funded by the participating governmental unit with a grant awarded under this chapter is not being or has not been properly rehabilitated, constructed, installed or maintained.

(4) The department may declare as ineligible project costs directly related to the violation.

(5) The department may withhold payment otherwise due to the participating governmental unit, under s. NR 128.18 (6).

(6) The department may seek an injunction or other appropriate relief under s. 144.98, Stats.

(7) The department may seek the imposition of a forfeiture for each violation, pursuant to s. 144.99, Stats.

History: Cr. Register, May, 1985, No. 353, eff. 6-1-85.

**NR 124.11 Variances.** The department may approve variances from requirements of this chapter upon the request of a participating governmental unit when it is determined that such variances are essential to effect necessary grant actions or department objectives, and where special circumstances make such variances in the best interests of the state. Before granting a variance, the department shall take into account such factors as good cause, circumstances beyond the control of the participating governmental unit or owner of a failing private sewage system, and financial hardship. The department may not approve a variance from statutory requirements.

History: Cr. Register, May, 1985, No. 353, eff. 6-1-85.