

Chapter NR 51

ADMINISTRATION OF STEWARDSHIP GRANTS

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Subchapter I — General Provisions

NR 51.001 Purpose. The purpose of this chapter is to implement and administer the stewardship program.

History: Cr. Register, October, 1990, No. 418, eff. 11–1–90.

NR 51.002 Definitions. In this chapter:

(1) “Acquisition cost” means the fair market value of the property as determined by department appraisal guidelines, except as provided in s. 23.0917 (7) (b) to (d), Stats., and reasonable costs related to the purchase of the property limited to the cost of appraisals, land surveys, relocation payments, title evidence, recording fees, historical and cultural assessments required by the department, and environmental inspections and assessments.

(2) "Acquisition project" means one or more parcels of land that are contiguous or in close proximity which include features or outdoor recreational opportunities that are eligible for grants in this chapter.

(3) "Baseline document" means an inventory of the features of a property including reports, maps, photographs and other documentation that provides an accurate representation of the property at the time an easement funded with a stewardship grant is executed. The baseline document is intended to serve as an objective information baseline for monitoring compliance with the terms of the easement.

Note: For information on creating a baseline document, contact Gathering Waters, a nonprofit conservation organization that provides technical assistance on easements, 211 S. Paterson St., Suite 180, Madison, WI 53703, or the DNR Bureau of Community Financial Assistance, P.O. Box 7921, Madison, WI 53707.

(4) "Conservation organization" means a nonprofit corporation formed under ch. 181, Stats., that meets all of the following conditions:

(a) One of the purposes of the organization is to protect, enhance or restore the state's natural resources for the benefit of the general public.

(b) The organization is not a nonprofit organization as that term is defined in s. 23.197 (4) (a) 1., Stats.

(5) "Cooperative agreement" means an agreement between a conservation organization and nonprofit organization under s. 23.197 (4) (b), Stats., setting forth the obligations of each.

(5m) "Current owner", for the purposes of s. 23.0917 (7) (b) to (d), Stats., means the owner who sells the property to the sponsor.

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

(7) "Development project" means the development of structures, utilities, facilities, landscaping, or restoration or enhancement of natural communities for the purposes of nature-based outdoor recreation.

(8) "Easement" means a conservation easement as defined in s. 700.40 (1) (a), Stats.

(9) "Fiscal year" means the period from July 1 to June 30.

(10) "Fringe benefits" means an employer's costs for an employee's social security, life and health insurance, unemployment insurance, worker's compensation insurance, retirement and authorized absences such as annual, sick, court or military leave. These costs must be equitably distributed to all employee labor activities.

(11) "Governmental unit" means a town, village, city, county or the Kickapoo reserve management board.

(12) "Grant agreement" means an unrecorded contract between a sponsor and the department setting forth the obligations of each.

(13) "Grant contract" means a recorded contract between a nonprofit conservation organization or conservation organization and the department setting forth the obligations of each.

(14) "Habitat restoration project" means the implementation of a specific activity or set of activities to restore or enhance wildlife or fish habitat, natural communities or shorelines.

(15) "Indirect costs" are those ordinary operating expenses of the sponsor not directly related to a specific stewardship project.

Note: Indirect costs are generally administrative in nature, and are typically incurred for multiple purposes. Examples of indirect costs include, but are not limited to, utilities, administrative salaries, postage and other expenses that are not supported by time reports or other documentation that identifies the expenditure as directly assignable to a stewardship project.

(16) "IRS" means the United States internal revenue service.

(17) "Land management plan" means a plan approved by the department detailing how property acquired by a nonprofit conservation organization or a conservation organization with grants under this chapter shall be managed and maintained.

(18) "Middle kettle moraine" means a corridor of land in southeastern Wisconsin between the northern and southern units

of the Kettle Moraine state forest that is within the kettle interlobate moraine physiographic or geologic region. This corridor includes a northeast-to-southwest diagonal set of linear features composed of sand and gravel from 2 glacial lobes. It is characterized by distinctive glacially-formed features including kettle holes, kames, eskers, crevasse fills and glacial spillways. The corridor includes natural areas, wildlife habitat, aquatic systems, environmental corridors, outdoor recreation areas and connecting trails.

Note: Information pertaining to the location of the kettle interlobate moraine physiographic region may be found in A Regional Natural Areas and Critical Species Habitat Protection and Management Plan for Southeastern Wisconsin, page 84, by the Southeastern Wisconsin Regional Planning Commission, or The Quaternary Geology of Ozaukee and Washington Counties, Wisconsin, Bulletin 19, pages 17-18 by the Wisconsin Geological and Natural History Survey. These publications are available from the Southeastern Wisconsin Regional Planning Commission, 916 N. East Avenue, Box 1607, Waukesha, Wisconsin 53187.

(19) "Nature-based outdoor recreation", under s. 23.0917 (4), Stats., means activities where the primary focus or purpose is the appreciation or enjoyment of nature. These activities may include but are not limited to hiking, bicycling, wildlife or nature observation, camping, nature study, fishing, hunting, picnicking, cross-country skiing, canoeing and multi-use trail activities. Support facilities for these activities may include but are not limited to access roads, parking areas, utility and sanitation systems, sanitary and shelter building, signs, interpretive items, and other features that enhance nature-based outdoor recreation or improved disabled accessibility. Ineligible activities include but are not limited to sports that require extensively developed open space such as dedicated sports fields, swimming pools and tennis courts.

(20) "Natural heritage inventory database" means a database containing the location and biological status of each natural community and rare species that has been inventoried and evaluated by the natural heritage inventory program.

(21) "Nonprofit conservation organization" has the meaning in s. 23.0955 (1), Stats., and whose bylaws, charter or incorporation papers reflect as a purpose of the organization the acquisition of property for conservation purposes.

(22) "Nonprofit organization" has the meaning in s. 23.197 (4) (a) 1., Stats.

(23) "Parcel" means a tract of land which is being conveyed by one deed.

(24) "Project period" means the period of time specified in a grant agreement during which all work shall be accomplished in order to be eligible for reimbursement.

(25) "Property" means land or rights in land.

(26) "Region" means one of the 5 department administrative areas within the state.

Note: The addresses of each of the region offices are as follows:

Southeast Region, 2300 N. Dr. Martin Luther King, Jr. Dr., Milwaukee, WI 53212

South Central Region, 3911 Fish Hatchery Rd., Fitchburg, WI 53711

West Central Region, 1300 W. Clairemont Ave., Eau Claire, WI 54702

Northeast Region, 1125 N. Military Avenue, Green Bay, WI 54307

Northern Region, 810 W. Maple St., Spooner, WI 54801

Northern Region, 107 Sutliff Ave., Rhinelander, WI 54501

(27) "Sponsor" means the city, village, town, county, nonprofit conservation organization, conservation organization, lake sanitary district, as defined in s. 30.50 (4g), Stats., public inland lake protection and rehabilitation district, or Kickapoo reserve management board that is applying for or has received a grant under this chapter.

(28) "Sponsor match" means the portion of the acquisition cost which is not funded by the state. Eligible sources of sponsor match may include cash from the sponsor; funds generated by local or federal government; 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; property acquired by the sponsor within 3 years of the acquisition if the property was not purchased with state funds; and property value donated by the property owner.

(29) "Stewardship" or "stewardship program" means the conservation, property acquisition and outdoor recreation programs specified in ss. 23.09 (2) (d), (2dm), (2p), (2q), (2r), (19), (20) and (20m), 23.0915, 23.0917, 23.092, 23.094, 23.096, 23.098, 23.17, 23.175, 23.197, 23.198, 23.27 (4), (5) and (6), 23.293 (4) and (5), 30.24 and 30.277, Stats.

(30) "Stewardship grant" means a grant of stewardship funds awarded to a sponsor.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; r. and recr. Register, February, 1996, No. 482, eff. 3-1-96; emerg. am. (1), renum. (2) to (9) and (11) to (15) to be (6), (9), (13), (16), (17), (20), (21), (23), (25) and (27) to (30) and am. (13), (17), (25), (27), (29) and (30), cr. (2) to (5m), (7), (8), (10) to (12), (14), (15), (18), (19), (22), (24) and (26), eff. 9-1-00; CR 00-135: am. (1), renum. (2) to (9) and (11) to (15) to be (6), (9), (13), (16), (17), (20), (21), (23), (25) and (27) to (30) and am. (13), (17), (25), (27), (29) and (30), cr. (2) to (5m), (7), (8), (10) to (12), (14), (15), (18), (19), (22), (24) and (26), Register July 2001, No. 547 eff. 8-1-01; **correction in (5m) made under s. 13.93 (2m) (b) 7., Stats.**

NR 51.003 Variances. The department may approve in writing a variance from a requirement of this chapter if the department determines that a variance is essential to effect necessary grant actions or program objectives and where special circumstances make a variance in the best interest of the program. Before approving a variance, the department shall take into account factors such as good cause, circumstances beyond the control of the sponsor, financial hardship and landowner demands. The department may seek the advice of the stewardship advisory council before issuing a variance. The department may not grant variances from statutory requirements.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; r. and recr. Register, February, 1996, No. 482, eff. 3-1-96; emerg. am. eff. 9-1-00; CR 00-135: am. Register July 2001, No. 547 eff. 8-1-01.

NR 51.004 Grants to conservation organizations.

(1) Under s. 23.197 (4), Stats., the department may award one stewardship grant per group to conservation organizations that have entered into a cooperative agreement with a nonprofit organization to apply for the grant. The cooperative agreement shall be on a form approved by the department.

(2) Stewardship grants to conservation organizations shall be for up to 50% of eligible project costs. A grant shall be at least \$2,500 and may not exceed \$20,000, which may be paid in multiple installments during the duration of the stewardship program under s. 23.197 (4), Stats.

(3) The stewardship grant may be used for habitat restoration projects under s. NR 51.46 or for property acquisition for the purposes described in s. NR 51.05, except that conservation organizations may not receive grants for the Baraboo hills under subch. X or bluff protection under subch. IV.

(4) A conservation organization and nonprofit organization that enter into a cooperative agreement to apply for a stewardship grant shall also enter into a grant contract with the department if a grant is awarded. The grant contract shall contain restrictions and conditions on the use of stewardship grant funds and on any property acquired with those funds.

(5) Title to property acquired with a stewardship grant awarded to a conservation organization shall vest in the nonprofit organization. If the nonprofit organization or conservation organization violates any essential provision of the grant contract, as described in s. NR 51.07 (3), title to the land shall vest in the state.

(6) Conservation organizations applying for grants for property acquisition shall meet all the requirements of ch. NR 51. The department shall evaluate the property according to the eligibility criteria and priorities in ss. NR 51.05 and 51.06.

(7) The department shall evaluate applications for grants for habitat restoration projects according to the standards in s. NR 51.46.

(8) The department may delegate to a nonprofit organization receiving the grant under s. 23.0956, Stats., administration of

stewardship grants to conservation organizations, as set forth in s. 23.197 (4), Stats.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

Subchapter II — Nonprofit Conservation Organizations

NR 51.01 Purpose. The purpose of this subchapter is to establish procedures and standards for the administration of grants to nonprofit conservation organizations for conservation purposes as set forth in s. 23.096, Stats.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; r. and recr. Register, February, 1996, No. 482, eff. 3-1-96.

NR 51.02 Applicability. This subchapter is applicable to nonprofit conservation organizations that wish to apply for grants as specified in s. 23.096, Stats., for the following specific purposes identified in s. 23.09 (2) (d) 1. to 7., 9., 11., 12. and 15.; s. 23.0917 (4m), Stats., Baraboo hills; s. 23.092, Stats., habitat areas; s. 23.094, Stats., stream bank protection; s. 23.17, Stats., ice age trail; s. 23.175, Stats., state trails; s. 23.27, Stats., natural areas; s. 23.29, Stats., natural area heritage program; s. 23.293, Stats., ice age trail dedications; s. 23.09 (19), Stats., urban green space; s. 23.09 (20), Stats., aids for the acquisition and development of local parks; s. 23.09 (20m), Stats., acquisition of development rights; s. 30.24, Stats., bluff protection and s. 30.277, Stats., urban rivers.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; am. Register, June, 1994, No. 462, eff. 7-1-94; r. and recr. Register, February, 1996, No. 482, eff. 3-1-96; emerg. am. eff. 9-1-00; CR 00-135: am. Register July 2001, No. 547 eff. 8-1-01.

NR 51.03 General provisions. (1) Except for grants issued under s. 23.0917 (4m), Stats., the department may issue grants for up to 50% of the acquisition cost of the property. Acquisition cost as defined in s. NR 51.002 (1) does not include attorneys fees, environmental clean up costs, brokerage fees paid by the buyer, real estate transfer taxes, or any other cost not identified in s. NR 51.002 (1). The amount of a grant shall be calculated in accordance with s. 23.0917(7), Stats. The remainder of the acquisition cost shall come from sponsor match with the following limitations:

(a) Up to 50% of the fair market value of a contribution of property may be used as sponsor match with the approval of the department, but only to the extent that stewardship grant assistance is needed to acquire the subject parcel. The amount of the property donation that can be used for the match equals the value of the donation or the amount of cash needed by the sponsor for the purchase, whichever is less, so there will be no cash back in excess of the monies actually needed for the purchase.

(b) If approved by the department, any residual value of a property donation which is not utilized as sponsor match in an application may be used for sponsor match in subsequent applications, but only in the fiscal year in which the first application is submitted and the following fiscal year.

Note: For example, land valued at \$20,000 is donated to the project sponsor who then purchases another property within the project boundaries for \$8,000. The appraised value of the purchased property is \$12,000. The total project value is \$32,000 and the matching share would normally be \$16,000. But because only \$8,000 was actually spent to purchase the land, and since a grant in excess of that would constitute a profit to the sponsor, the state share is reduced to \$8,000. The remaining \$8,000 in donor value may be used by the sponsor in subsequent applications in that fiscal year and the following fiscal year.

(c) Contributions of property are eligible as sponsor match only if the donated property is eligible for the same purpose, identified in s. NR 51.02, as the property being acquired. The donated property shall be encumbered in perpetuity by the conditions and restrictions of that stewardship program purpose.

(d) The fair market value of property used as sponsor match shall be determined by appraisal according to department appraisal guidelines.

(e) All sources of sponsor match shall be included in the application for a stewardship grant.

(f) Property acquired through a lawfully required subdivision parkland dedication is not eligible as sponsor match.

(2) One half of all receipts from the sale of any structures, improvements or personal property that were included in the appraisal and subsequent acquisition cost shall be reimbursed to the department.

(3) Income accruing to property receiving a stewardship grant shall be used to further the objectives of the project as stated in the grant contract unless the department authorizes the income to be used to further the objectives of another stewardship project or the property is entered into the county forest law program under s. 28.11, Stats. If the property is entered into the county forest law program, income derived from the property shall be distributed according to s. 28.11, Stats.

(4) Reasonable entrance, service or user's fees may be charged to defray operation and maintenance costs subject to department review and approval.

(5) Sponsors shall agree to abide by all applicable state, local and federal statutes and regulations including but not limited to general and special zoning, land use permit requirements, disabled access, environmental quality and historical and archaeological preservation.

(6) Property transactions shall be subject to ss. 32.19 to 32.27, Stats., and relocation assistance shall be subject to ch. Comm 202.

Note: The following information is from ch. Comm 202.

Under s. Comm 202.01 (14), "an owner occupant who voluntarily sells a property to a displacing agency not vested with eminent domain power" is not a displaced person and is not entitled to relocation assistance. Tenants who occupy a property are entitled to relocation assistance even if the owner is voluntarily selling the property.

Under s. Comm 202.01 (14) (b) 4., a "tenant-occupant of a dwelling who has been promptly notified that he or she will not be displaced by the project" but who can remain permanently on the property subject to normal rental conditions and provisions may not be a displaced person who qualifies for relocation assistance so long as they are not required by the sponsor to move.

Under s. Comm 202.01 (33), relocation assistance shall apply to all stewardship grants where the total of stewardship grants and all other public financial assistance or direct government acquisition costs in a project are at least \$25,000 for a project with total costs of less than \$50,000; or at least 50% in a project having total costs of \$50,000 or more.

(7) Sponsors shall treat landowners fairly and negotiations between the sponsor and landowner shall be conducted on a willing seller – willing buyer basis. The department may require the sponsor to inform the landowner in writing that it may apply for a stewardship grant.

(8) Sponsors may not discriminate against any person in the use and enjoyment of the property on the basis of age, race, creed, color, handicap, marital status, conviction record, arrest record, sex, national origin, ancestry, sexual orientation or membership in the national guard, state defense force, or any other reserve component of the military forces of the United States or this state.

(9) Sponsors shall acknowledge the state's assistance in acquiring fee title ownership of a property, and provide notice of public access, by placement of signs or in any other manner approved by the department.

(10) The department shall have access to land acquired with a stewardship grant in order to monitor compliance with the grant contract or carry out any management activity necessary to ensure the public's rights and safety.

(11) The department shall have access to property on which an easement is acquired with a stewardship grant, in a reasonable manner upon prior notice to the nonprofit conservation organization and the landowner, to monitor compliance with the conditions of the grant contract. The conditions of that access shall be contained in the easement agreed to by the landowner, or in the grant contract if it has been agreed to and signed by the landowner. The department may grant exceptions to this access requirement in extraordinary situations according to the procedure in s. NR 51.003.

(12) The sponsor may sell or transfer the property to a third party other than a creditor of the organization with the prior written approval of the department. All stewardship restrictions imposed by the grant contract and land management plan shall remain with the property and any subsequent owners shall execute a grant contract assignment which states that they have received and reviewed the grant contract and land management plan and shall abide by their provisions. Department approval of the transfer is not valid until the grant contract assignment is signed by the department and recorded in the appropriate register of deeds office.

(13) The sponsor shall notify the department of any change in the status or purpose of the nonprofit conservation organization as it relates to the acquisition and management of lands for conservation purposes.

(14) If the nonprofit conservation organization dissolves, all title, right and interest held by the sponsor in and to the property shall vest in the state, without the necessity of reentry, unless a transfer under sub. (12) is approved.

(15) Within the land acquisition subprogram under s. 23.0917 (3), Stats., and subchs. I through VIII, the department may not award grants to governmental units, but it may consider projects involving both nonprofit conservation organizations and governmental units as partners when those projects meet department objectives. Pursuant to s. 23.096 (4), Stats., the department may approve a transfer of title from the nonprofit conservation organization to the governmental unit for the purpose of long-term management.

(16) For property acquired with a stewardship grant that is within the boundaries of a department project, the land management plan and public use shall be consistent with the department management plan and public use for the project. For properties adjacent to department projects, land management plans shall be compatible with department management plans.

(17) For easements acquired with a stewardship grant, the sponsor may not convert or approve conversion of land encumbered by the easement to uses inconsistent with the easement.

(18) When a stewardship grant is awarded for acquisition of an easement, the sponsor shall prepare a baseline document, approved by the landowner and available to the department for inspection, before grant payments are made.

(19) The sponsor shall monitor any easement acquired with a stewardship grant at least once a year to ensure that the provisions of the easement are being satisfied. The sponsor shall compare the condition of the property with the baseline document, and shall enforce all easement provisions.

(20) The holder of any mortgage or land contract on easement property shall subordinate its rights to the terms of the easement before grant payments are made.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; am. (3) (intro.) and (10), Register, June, 1994, No. 462, eff. 7-1-94; r. and recr. Register, February, 1996, No. 482, eff. 3-1-96; correction in (6) made under s. 13.93 (2m) (b) 7., Stats., Register, September, 1996, No. 489; correction in (6) made under s. 13.93 (2m) (b) 7., Stats., Register, December, 1997, No. 504; emerg. am. (1) (intro.), (c) and (d), (3), (7), (9), (11) and (12), cr. (1) (f), (15) to (20), eff. 9-1-00; CR 00-135: am. (1) (intro.), (c) and (d), (3), (7), (9), (11) and (12), cr. (1) (f), (15) to (20), Register July 2001, No. 547 eff. 8-1-01.

NR 51.04 Application procedures and eligibility for grant assistance. (1) APPLICATION PROCEDURES. (a) Applications for stewardship grant assistance shall be submitted to the appropriate region office on forms provided by the department. The department may request more detailed information and may withhold evaluation of the application until the additional information requested has been received.

Note: Copies of application forms and instructions are available from the DNR, Bureau of Community Assistance, Box 7921, Madison, WI 53707.

(b) The department may approve applications as they come in, year-round to the extent that funds are available or the department may establish application deadlines for individual components of

the stewardship programs in order to rate and rank competing applications.

(c) The department shall send written notification to sponsors of department decisions regarding their applications after all application materials have been received and acted upon by the department.

(d) The department may make a conditional decision to approve a project or award a grant, but withhold a final decision or grant payment until identified contingencies are satisfied.

(2) ORGANIZATION ELIGIBILITY. (a) An organization shall be eligible for the stewardship program once it has provided evidence satisfactory to the department that it is a nonprofit conservation organization.

(b) The department may award a stewardship grant to a sponsor after the sponsor has provided evidence satisfactory to the department that it has the financial capacity and the ability to acquire property and provide for its long-term management and maintenance.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; am. (2), (6) (a) 2., 4. b., (b) 2. and (c) 1., cr. (6) (a) 4. c., r. (6) (a) 7., 10., 11., (b) 8. and (c) 10., renun. (6) (a) 8., 9., 12., (b) 9., 10., (c) 11. to 13. to be (6) (a) 7., 8., 9., (b) 8., 9., (c) 10. to 12. and am. (6) (a) 7., Register, June, 1994, No. 462, eff. 7-1-94; r. and recr. Register, February, 1996, No. 482, eff. 3-1-96; emerg. am. (1) (a), r. (3), renun. (4) to be (1) (d), eff. 9-1-00; CR 00-135: am. (1) (a), r. (3), renun. (4) to be (1) (d), Register July 2001, No. 547 eff. 8-1-01.

NR 51.05 Eligible acquisition projects. (1) The department may award stewardship grants to nonprofit conservation organizations for acquisition of property or a portion of property for the following:

(a) For natural areas under subch. III; the Ice Age trail and state trails under subch. VIII; stream bank protection under subch. VII; habitat areas and fisheries under subch. V; bluff protection under subch. IV; wild lakes under subch. VI; the Baraboo hills under subch. X; aid for local parks under subch. XII; urban green space under subch. XIII; urban rivers under subch. XIV and acquisition of development rights under subch. XV.

(b) For the Lower Wisconsin state riverway, and wild rivers designated under s. 30.26, Stats., including lands within or adjacent to their acquisition boundaries.

(c) For the middle kettle moraine.

(d) For state forests or state parks including lands within or adjacent to a state forest or state park or its acquisition boundaries.

(e) For public shooting, trapping or fishing grounds, state wildlife areas, state recreation areas, lands within or adjacent to their acquisition boundaries, or for projects that have similar purposes.

(f) For preservation of endangered or threatened species under s. 29.604, Stats.

(g) For fish farms as defined in s. 95.60 (1) (a), Stats., doing cooperative work with the state.

(h) For acquisition of development rights to create agricultural, forestry or other buffers on lands adjacent to properties acquired for the purposes listed in this subsection.

(2) Property that is not eligible for grants includes:

(a) Any property that has restrictions or other covenants that prevent or limit the property from being managed for the conservation or public recreational purposes of the stewardship program or that would preempt the department's reversionary interests under s. 23.096 (5), Stats.

(b) Any property that was acquired more than one year before a grant application is submitted for that property. Eligible parcels that are not awarded grants in the fiscal year in which they are submitted due to insufficient funds may be considered for funding in following fiscal years.

(c) Property that is used or may be used for licensed game farms, fur farms, deer farms, shooting preserves, forest nurseries or experimental stations.

(d) Property used for commercial or industrial purposes, except for fundraising activities by project sponsors or as approved by the department.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.06 Acquisition priorities. (1) The department shall base its evaluation of acquisition projects on information submitted in the application as well as site visits and technical review comments. Property shall be evaluated and grants awarded according to criteria and priorities for the different purposes of the stewardship program identified in s. NR 51.05.

(2) In awarding grants under s. 23.0917 (3), Stats., the department shall give priority to all of the purposes listed in s. 23.0917 (3) (c), Stats.

(3) Additional factors that may be considered by the department when awarding grants under s. 23.0917 (3), Stats., include:

(a) Whether the project has regional, statewide or local significance.

(b) The degree to which the site is threatened by development or other conversion of land use.

(4) A higher priority may be placed on existing projects or large projects, which may be pursued in collaboration with others, where the multiple acquisition of adjacent parcels will provide greater benefit for natural resource conservation than single parcel projects.

(5) A higher priority may be placed on projects that have been identified as important for natural resource protection in a comprehensive plan pursuant to s. 66.1001, Stats., another plan that has as one of its purposes the protection of natural resources, or the natural heritage inventory database.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.07 Grant contracts for acquisition projects.

(1) Stewardship grants shall be subject to the execution of a grant contract between the department and sponsor. The grant contract shall recognize the state's interest in the property acquired and ensure that sponsors shall provide adequate land management and maintenance, or in the case of easements shall monitor and enforce the conditions of the easement, in accordance with provisions contained in the grant contract and in a land management plan approved by the department. The grant contract shall be recorded in the office of the register of deeds in the appropriate county.

(2) All obligations, terms, conditions and restrictions imposed by the grant contract 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 contract and shall bind the sponsor and all successors and assigns in perpetuity.

(3) If the sponsor violates any condition of the grant contract identified as essential pursuant to s. 23.096 (5), Stats., and fails to correct it within 6 months after written notification from the department, it shall be a violation of the grant contract, and all title, right and interest held by the sponsor in and to the property shall vest in the state without the necessity of reentry. The following conditions of the grant contract are essential:

(a) Conversion of the property to any use other than that specified in the grant contract without the prior written approval of the department is prohibited.

(b) The sponsor 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 actions necessary to avoid the placement of liens, judgments or encumbrances against the property.

(c) Property tax payments shall be made on time and kept current unless property taxes are not required.

(d) The sponsor shall at all times maintain its tax exempt status as granted by the IRS. The sponsor shall keep the department informed of any changes in, or challenges to, its exempt status.

(e) Property acquired with a stewardship grant may not be closed to the public unless the department determines that it is necessary to protect species of plants, wild animals or other natural features or if the right of public access is not acquired as part of the rights purchased with an easement.

(4) Additional conditions and restrictions may be contained in the grant contract.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; am. (1) (b) and (2), r. (4), renum. (5) to (7) to be (4) to (6), cr. (7), Register, June, 1994, No. 462, eff. 7-1-94; r. and recr. Register, February, 1996, No. 482, eff. 3-1-96; emerg. renum. from NR 51.05, cr. (4), eff. 9-1-00; CR 00-135: renum. from NR 51.05, cr. (4), Register July 2001, No. 547 eff. 8-1-01.

NR 51.08 Grant payments for acquisition projects.

The department may not approve grant payments until the following conditions have been satisfied:

(1) The sponsor has submitted a claim supported by appropriate evidence of cost. Accounting for all stewardship grants shall be in accordance with generally accepted accounting principles and practices. Financial records including documentation to support accounting records shall be available for review by state officials for a period of 4 years after final payment.

(2) The department has approved the value of the property according to department appraisal guidelines or as required by s. 23.0917 (7), Stats.

Note: The department's appraisal guidelines are available from the DNR, Bureau of Community Financial Assistance, Box 7921, Madison, WI 53707.

(3) The sponsor has submitted an environmental inspection or assessment report showing the property contains no undesirable environmental conditions, potential liabilities or hazards that are unacceptable to the department. Inspection and assessment reports are subject to department review and approval. If a report shows the property contains or may contain unacceptable environmental conditions or liabilities, the department may reject the grant application or require a more complete environmental assessment to determine the full extent of the problem.

Note: The department's environmental inspection report form is available from the DNR, Bureau of Community Assistance, Box 7921, Madison, WI 53707.

(4) (a) Except as provided in par. (b), title insurance or other evidence of marketable title has been approved by the department and the interests of the state under the grant contract have been declared in a recorded instrument of conveyance.

(b) Upon the request of the sponsor, the department may elect to pay out up to 100% of the grant award to a non-interest bearing escrow account before conveyance of the property to the sponsor if the department has approved the title commitment or an attorney's opinion of title merchantability and if the escrow holder has agreed to release the funds only under the following conditions:

1. The escrow holder has all necessary additional funds for the purchase and sale of the subject property.

2. The escrow holder insures title to or receives title insurance for the property subject only to exceptions contained in the title commitment which has been approved by the department; or the escrow holder receives a department approved title opinion.

3. The escrow holder insures that a legal instrument is recorded which vests title or a property interest in the sponsor and references the interest of the state in the property under the terms of the grant contract.

4. Funds shall be returned to the department within 30 days of the closing date if the closing does not occur as scheduled unless the department approves an extension.

(5) All statutory requirements of this chapter and contingencies contained in the grant contract have been satisfied.

(6) The department has approved a land management plan. The plan may be part of the grant contract or it may be a separate document incorporated by reference into the grant contract. For

easements, the land management terms may be included in the easement.

(7) The department has approved any easement documents associated with the project.

(8) If a sponsor has incurred a mortgage on the property, but has all the additional funds necessary to pay off the mortgage or land contract except the grant funds, the department may make the grant payment if other requirements have been met. The sponsor shall provide the department with evidence that the mortgage has been satisfied within 30 days of the grant payment.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; am. (1), r. (3) and (5), renum. (4) and (6) to be (3) and (5) and am. (5) (intro.), (i) 2. and (j), cr. (4), Register, June, 1994, No. 462, eff. 7-1-94; r. and recr. Register, February, 1996, No. 482, eff. 3-1-96; emerg. renum. from NR 51.06 and am. (1) to (3), (4) (b) 1. and (5), cr. (6) to (8), eff. 9-1-00; CR 00-135: renum. from NR 51.06 and am. (1) to (3), (4) (b) 1. and (5), cr. (6) to (8), Register July 2001, No. 547 eff. 8-1-01.

NR 51.09 Eligible costs and grant payments for development and habitat restoration projects. (1) ELIGIBLE COSTS.

Reasonable and necessary project costs that are consistent with the project scope and incurred during the project period are eligible for grant funds. The amount the department agrees to reimburse for any land management practice may be based on an average cost determined as reasonable by the department. The department may request that the sponsor obtain quotes for land management practices and other development project expenses.

(a) Eligible costs may include, but are not limited to:

1. Labor costs directly related to and required for completing the project. Costs shall be based on the actual wage paid by the sponsor including salary and fringe benefits.

2. Direct costs for materials and equipment used for project-related purposes or the cost of the portion of materials or equipment time used for the project.

3. The cost of leased equipment used for project-related purposes.

(b) Engineering or planning fees necessary to complete a project may be eligible and may be retroactive.

(c) The substantiated value of materials, equipment, services and labor donated for the project may be used as all or part of the sponsor's share of the project cost subject to all of the following:

1. All known sources of the sponsor's share of project costs shall be indicated when the grant application is submitted.

2. The maximum value of donated, non-professional labor shall be equal to prevailing federal minimum wage requirements.

3. The value of donated materials and donated professional services shall conform to market rates and be established by invoice.

4. The value of donated equipment use shall conform to the Wisconsin department of transportation highway rates for equipment.

Note: The county highway rates for equipment are formulated under s. 84.07, Stats., and can be found in chapter 5 of the State Highway Maintenance Manual published by the Wisconsin Department of Transportation, 4802 Sheboygan Ave., Madison 53705.

(2) INELIGIBLE COSTS. Costs not directly associated with or necessary for the implementation of the project are ineligible for grant funding. Ineligible costs include, but are not limited to:

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

(b) Indirect costs including administrative costs.

(c) Costs for which payment has been or will be received from any other funding source.

(d) Costs associated with operation and maintenance of the property.

(3) GRANT PAYMENTS. (a) The department may provide an advance payment if the sponsor provides proof that it has its share of the project costs.

(b) The sponsor may request interim payments instead of an advance payment.

(c) The sponsor shall submit the final payment request form within 90 days after project completion or after the project period end date, whichever is sooner.

(d) The sponsor shall return any unexpended grant monies to the department within 90 days after project completion or the project period end date, whichever is sooner.

(e) The department may withhold final payment of the grant amount until all project, legal and program requirements have been satisfied. Accounting for all stewardship grants shall be in accordance with generally accepted accounting principles and practices. Financial records including documentation to support accounting records shall be available for review by state officials for a period of 4 years after final payment.

(f) For projects that continue longer than one year, the department may require the sponsor to submit one or more interim reports that contain details of progress and other information regarding the status of the project.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

Subchapter III — Natural Areas Grants

NR 51.20 Purpose. The purpose of this subchapter is to establish procedures and standards for the administration of grants to nonprofit conservation organizations for natural area protection purposes as set forth in s. 23.096, Stats., under the natural areas or natural area heritage program.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90.

NR 51.21 Applicability. This subchapter applies to nonprofit conservation organizations that wish to apply for grants for natural areas or natural area heritage program areas as specified in s. 23.096, Stats.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90.

NR 51.22 Definitions. In addition to the definitions in s. NR 51.002, the following definitions apply to this subchapter:

(1) "Dedicated state natural area" has the meaning specified in s. 23.27 (1) (b), Stats.

(2) "Dedication" has the meaning specified in s. 23.27 (1) (c), Stats.

(3) "Designated state natural area" has the meaning specified in s. 23.27 (1) (d), Stats.

(4) "Natural area" has the meaning specified in s. 23.27 (1) (e), Stats.

(5) "Natural values" has the meaning specified in s. 23.27 (1) (f), Stats.

(6) "Priority site list" means a list of sites generated and revised periodically by the department based on the natural heritage inventory database, if appropriate, and on the department review of proposed sites for natural area projects.

(7) "State natural area" has the meaning specified in s. 23.27 (1) (h), Stats.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; r. (5), renum. (6) to (8) to be (5) to (7), Register, February, 1996, No. 482, eff. 3-1-96.

NR 51.23 Eligible applicants. Nonprofit conservation organizations are eligible to apply for natural area grants.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; am. Register, February, 1996, No. 482, eff. 3-1-96.

NR 51.24 Grant conditions. Grant awards shall be made with the condition that the property shall qualify for dedication and be dedicated as a state natural area under ss. 23.27 and 23.29, Stats., except for those sites that the department may, with good cause, exempt from the dedication requirement. Good cause includes, but is not limited to, sites that have deed restrictions or

ephemeral natural values such as rookeries and bird concentration areas.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; am. (1), Register, February, 1996, No. 482, eff. 3-1-96; emerg. renum. from NR 51.25 and am., eff. 9-1-00; CR 00-135: renum. from NR 51.25 and am., Register July 2001, No. 547 eff. 8-1-01.

NR 51.25 Application procedure. (1) APPLICATION DEADLINES. Deadlines are as stated in subch. I.

(2) PROJECT APPLICATIONS. Applications shall include:

(a) A list of the goals of the project in terms of natural area protection: What natural values will be protected by the project?

(b) The boundary of the project mapped on a U.S.G.S. 7.5-minute quadrangle map;

(c) A history of the land use within the project boundary;

(d) A history of the land use surrounding the project;

(e) A history of the past disturbances;

(f) A discussion of the present threats to the natural values of the project;

(g) A proposed land management plan including detailed plans for restoration of those areas not of natural area quality within the project boundary;

(h) Recent air photos;

(i) A justification of the long-term viability of the site: Is the natural area protection goal realistic given the natural values to be protected, the size of the project, the surrounding land use, and the proposed land management plan?

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; am. (2), (3) (intro.), (g) and (i), r. (3) (j), Register, February, 1996, No. 482, eff. 3-1-96; emerg. renum. from NR 51.26 and am., eff. 9-1-00; CR 00-135: renum. from NR 51.26 and am., Register July 2001, No. 547 eff. 8-1-01.

NR 51.26 Approval of projects. The department shall evaluate each project as follows:

(1) If the project is listed on the current priority site list, it shall be approved.

(2) If the project is not on the current priority site list, the department shall review proposed projects that are eligible for natural area designation pursuant to s. 23.27 (1) (e) and (f), Stats. The criteria used to evaluate natural values of proposed projects are as follows:

(a) The quality of the natural value to be protected.

(b) The condition of the natural value to be protected, including an analysis of the degree to which the natural value has been damaged or altered from its optimal condition and character.

(c) The long-term viability of the natural value to be protected, including the extent to which the project meets the minimum area required by area-dependent species of concern; the adequacy of the project to maintain community function and dynamics; the impacts that fragmentation, isolation and size of community may have on its longevity; and the ability of the project to support minimum viable populations of species to be protected.

(d) The defensibility of the natural value and the project from adverse effects that threaten it.

(3) The criteria used to evaluate and rank proposed projects are as follows:

(a) The rarity of the natural value to be protected.

(b) The number of natural values to be protected.

(c) The degree to which the natural value and the project are threatened and the degree to which they are already protected.

(d) The value of the area for research and education.

(e) The degree to which acquisition, as opposed to other protection tools, will protect the natural value.

(f) The degree to which this type of natural value is already protected in the state.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; renum. (1), r. (2), Register, February, 1996, No. 482, eff. 3-1-96; emerg. renum. from NR 51.27, eff. 9-1-00; CR 00-135: renum. from NR 51.27, Register July 2001, No. 547 eff. 8-1-01.

NR 51.27 Approval of parcels. In a given fiscal year, parcels within the boundaries of an approved project or projects on the current priority site list shall be funded unless there are more parcels than money available.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; am. (1) (intro.), r. (1) (a) to (c) and (2), Register, February, 1996, No. 482, eff. 3-1-96; emerg. renum. from NR 51.28, eff. 9-1-00; CR 00-135: renum. from NR 51.28, Register July 2001, No. 547 eff. 8-1-01.

NR 51.28 Unfunded parcels. Parcels within projects on the current priority site list that are not funded due to insufficient funds may be resubmitted the following fiscal year and shall receive first priority within the appropriate priority groups listed in s. NR 51.28.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; correction made under s. 13.93 (2m) (b) 7., Stats., Register, February, 1996, No. 482, eff. 3-1-96; emerg. renum. from NR 51.29, eff. 9-1-00; CR 00-135: renum. from NR 51.29, Register July 2001, No. 547 eff. 8-1-01.

Subchapter IV — Bluff Protection

NR 51.30 Purpose. The purpose of this subchapter is to establish the administrative framework for the implementation of the bluff protection program to preserve Great Lakes bluff land in Wisconsin under s. 30.24, Stats.

History: Emerg. cr. Register, eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.31 Applicability. This subchapter applies to the department program to acquire Great Lakes bluff land under s. 30.24, Stats., and to bluff land protection grants to nonprofit conservation organizations pursuant to s. 23.096, Stats.

History: Emerg. cr. Register, eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.32 Definitions. In this subchapter, “bluff” means a hill, ridge or similar landform significantly elevated above the surrounding landscape, having a broad, steep face or cliff, and adjoining the shoreline or coastal lowlands of Lake Michigan or Lake Superior. “Bluff” includes an elevated landform having a steep face or bedrock cliff associated with the escarpment of Niagara dolomite within 6 miles of the Lake Michigan shoreline in Door and Brown counties.

History: Emerg. cr. Register, eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.33 Priorities. The department shall select bluff lands for protection in the following order of priority:

(1) Bluffs harboring unique or unusual natural features, including high quality biotic communities, rare plant and animal species or significant geological formations.

(2) Bluffs containing or representing significant historical or Native American archaeological features.

(3) Bluffs affording significant scenic views of surrounding landscapes and waterscapes, or bluffs that are themselves an important scenic component of the landscape as observed from afar.

(4) Bluffs providing opportunities for low-impact public recreation, including hiking and nature study.

History: Emerg. cr. Register, eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.34 Factors to consider. The department shall consider the following factors when evaluating bluff protection projects:

(1) The condition and quality of the bluff’s biological, archaeological or historical features or their ability to recover from past disturbance, or both.

(2) The existing and potential threats to the bluff features’ long-term viability caused by human activities, including development and land use changes.

(3) The existing and potential threats to the bluff caused by natural factors such as extensive erosion due to high water levels.

(4) The size of the bluff.

(5) The potential for the bluff site to be linked with other protected bluff lands or significant natural features.

(6) The extent to which bluffs containing similar features are already protected.

(7) The accessibility of the bluff for public use and the ability of the site to sustain that use.

History: Emerg. cr. Register, eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.35 Grants to protect bluff land. (1) Nonprofit conservation organizations may apply for grants to protect Great Lakes bluff land.

(2) Bluff projects shall be evaluated and grants awarded according to the priorities and factors in ss. NR 51.33 and 51.34.

History: Emerg. cr. Register, eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

Subchapter V — Habitat Areas

NR 51.40 Purpose. The purpose of this subchapter is to establish the administrative framework for the implementation of the habitat areas program to protect, enhance and restore wildlife habitat in Wisconsin. The goals of the program will be achieved through acquisition of property, habitat restoration and establishment of habitat restoration areas.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; r. and recr. Register, February, 1996, No. 482, eff. 3-1-96; emerg. am. eff. 9-1-00; CR 00-135: am. Register July 2001, No. 547 eff. 8-1-01.

NR 51.41 Applicability. This subchapter applies to the department’s habitat areas program under s. 23.092, Stats., and grants to nonprofit conservation organizations pursuant to ss. 23.092 and 23.096, Stats., and conservation organizations pursuant to s. 23.197 (4), Stats.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; r. and recr. Register, February, 1996, No. 482, eff. 3-1-96; emerg. am. eff. 9-1-00; CR 00-135: am. Register July 2001, No. 547 eff. 8-1-01.

NR 51.42 Definitions. In addition to the definitions in s. NR 51.002, the following definitions apply to this subchapter:

(1) “Habitat restoration area” or “HRA” means a landscape scale area of manageable size, delineated by the department and selected according to the criteria and procedures specified in s. NR 51.43.

(2) “Habitat restoration contract” means a recorded contract between the department and a nonprofit conservation organization, nonprofit organization, or conservation organization or landowner setting forth the obligations of each and identifying land management practices and their cost, installation schedule and maintenance requirements.

(3) “Habitat restoration grant” means a grant of stewardship funds to a nonprofit conservation organization, nonprofit organization or conservation organization to undertake a habitat restoration project that includes the installation of land management practices.

(4) “Land management practice” means a practice, technique or measure approved by the department which is determined to be an effective, practicable means of protecting, restoring or enhancing wildlife or fish habitat.

(5) “Landowner” means any individual, partnership, corporation, municipality, town, county, nonprofit organization or other person holding title to the land by fee title.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; r. and recr. Register, February, 1996, No. 482, eff. 3-1-96; emerg. r. (2) and (6), renum. (1) and (3) to be (2) and (1) and am. (2), eff. 9-1-00; CR 00-135: r. (2) and (6), renum. (1) and (3) to be (2) and (1) and am. (2), Register July 2001, No. 547 eff. 8-1-01.

NR 51.43 Habitat restoration areas. (1) The goal of establishing habitat restoration areas is to increase the populations of specified wildlife and fish populations primarily through landscape scale habitat management.

(2) Habitat restoration areas shall be selected by the department using the following criteria:

(a) The practicability of achieving significant improvements in the quality and quantity of wildlife or fish habitat in the HRA.

(b) Likelihood of owners of critical habitat management sites to participate in the project.

(c) The probability of wildlife or fish populations for which habitat has been severely degraded to increase in abundance and establish a self-sustaining wild population.

(d) The level of public ownership of critical habitat types in the HRA.

(e) The level of interest on the behalf of nonprofit conservation organizations to assist in implementation.

(f) The level of opportunities to cooperate with existing federal, state and county administered land management programs.

(g) The presence of unique or endangered environmental resources.

(h) The usefulness of the area as an education demonstration area.

(3) The department shall give priority in selecting habitat restoration areas to the following sites and species in the following order:

(a) Southern, eastern and western Wisconsin sites suitable for restoring grasslands and wetlands to benefit gamebirds such as pheasants and dabbling ducks, and grassland songbirds in the following counties: Barron, Columbia, Dane, Dodge, Dunn, Fond du Lac, Green, Green Lake, Jefferson, Polk, Rock, St. Croix, Walworth and Winnebago.

(b) Central Wisconsin sites suitable for restoring grasslands for rare species such as prairie chickens in the following counties: Adams, Clark, Juneau, Marathon, Portage, Taylor and Wood.

(c) Southwestern Wisconsin sites suitable for restoring small-mouth bass fisheries and grassland bird habitat in the following counties: Grant, Iowa and Lafayette.

(d) Other sites where the habitat restoration projects will significantly benefit grassland, wetland and rare wildlife species.

(4) The department shall select habitat restoration areas for designation based on the criteria listed in subs. (2) and (3), availability of funding and the availability of department staff to accept new workloads associated with the project.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; r. and recr. Register, February, 1996, No. 482, eff. 3-1-96; emerg. am. (3) (c), eff. 9-1-00; CR 00-135: am. (3) (c), Register July 2001, No. 547 eff. 8-1-01.

NR 51.45 Grants for property acquisition. (1) Non-profit conservation organizations may apply for stewardship grants to acquire property to protect, enhance or restore wildlife habitat.

(2) Projects which are not eligible to receive grants include:

(a) Property containing or planned to contain buildings or other facilities designed for intensive recreational use such as playgrounds, roads, picnic areas, boating and camping facilities, playing fields or shelters, unless the facility occupies only a small portion of the property and the department determines it does not diminish the property's wildlife habitat value.

(b) Timber plantations.

(c) Property which is intended for agricultural use.

(3) Projects which have one or more of the following characteristics, not listed in priority order, shall receive preference for funding:

(a) Projects which protect, enhance or restore ecologically significant plant and wildlife communities, biological diversity, unique or outstanding ecosystems or rare wildlife and plant species.

(b) Sites which have been identified as regionally important for wildlife and plants in a comprehensive land use plan or the natural heritage inventory database.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; r. and recr. Register, February, 1996, No. 482, eff. 3-1-96; emerg. r. (2) (d), eff. 9-1-00; CR 00-135: r. (2) (d), Register July 2001, No. 547 eff. 8-1-01.

NR 51.46 Habitat restoration grants. (1) Conservation organizations may apply for habitat restoration grants to install land management practices which restore or enhance wildlife habitat. Habitat restoration grants shall be in an amount up to 50% of the cost of the habitat restoration project. Project sponsors may request an advance payment of up to 50% of the grant amount or they may request interim payments.

(2) The following are not eligible for grant assistance:

(a) Land management practices installed on licensed game farms, fur farms, deer farms or shooting preserves.

(b) Other practices, activities or sites that do not meet the objectives of the habitat areas program.

(3) Sponsors shall be selected to receive habitat restoration grants based on the following:

(a) The likelihood that the project will restore and enhance wildlife or fish habitat.

(b) The quality and value of the habitat that will be restored.

(c) The sponsor's ability and financial capacity to complete the project and maintain it over the period of the habitat restoration contract.

(d) The cost effectiveness of the proposed budget for the project.

(4) Sponsors shall install and maintain land management practices in accordance with provisions contained in the habitat restoration contract which shall be recorded in the office of the register of deeds and with a land management plan for the property referenced in the habitat restoration contract.

(5) The habitat restoration contract shall bind each party's heirs, successors and assigns during the effective period of the contract. If a change in ownership occurs during the effective period of the agreement, the new landowner or landowners shall be responsible for fulfilling all conditions of the habitat restoration contract.

(6) The period of the habitat restoration contract shall include the installation period plus the operation and maintenance period. The operation and maintenance period shall be at least 10 years beginning when the last practice has been installed unless otherwise provided in the habitat restoration contract.

(7) The department may grant a time extension to the habitat restoration contract.

(8) Sponsors shall apply for federal and state permits, approvals, licenses or waivers necessary to implement the project. If the habitat restoration project is on land not owned by the sponsor, the landowner shall be a party to any permit application. Work may not begin until all applicable permits have been obtained.

(9) Land management practices allowed by a habitat restoration contract may be installed on property not owned by the sponsor if the landowner is a party to the habitat restoration contract and provided that the contract is at least as long as the expected life of the project as specified in the contract.

(10) If the sponsor fails to fulfill any terms of the habitat restoration contract, including failing to install or properly maintain the practices of the contract, the department may seek reimbursement of all or a portion of the state's share. If a practice is rendered ineffective during the period of the contract due to circumstances beyond the control of the sponsor, the department may waive repayment of expenses. The department may authorize the replacement or modification of the practice.

(11) The department may suspend or terminate a habitat restoration contract if there has been substantial nonperformance without good cause.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; r. and recr. Register, February, 1996, No. 482, eff. 3-1-96; emerg. am. (1), (2) (intro.), (3) (intro.), (4) to (11), r. (2) (a) and (d), renum. (2) (b) and (c) to be (2) (a) and (b) and am. (b), cr. (3) (c) and (d), eff. 9-1-00; CR 00-135: am. (1), (2) (intro.), (3) (intro.), (4) to (11), r. (2) (a) and (d), renum. (2) (b) and (c) to be (2) (a) and (b) and am. (b), cr. (3) (c) and (d), Register, July 2001, No. 547 eff. 8-1-01.

Subchapter VI — Wild Lakes

NR 51.50 Purpose. The purpose of this subchapter is to establish the administrative framework for acquisition of property to preserve wild lakes.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.51 Applicability. This subchapter applies to the department program to acquire wild lake shoreland property, including islands, under s. 23.0917, Stats., and wild lake grants to nonprofit conservation organizations pursuant to s. 23.096, Stats.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.52 Definitions. In this subchapter, “wild lake” means a lake or flowage of at least 5 acres, or significant portions thereof, identified in the Wisconsin register of waterbodies, where human influence, such as structural development of its shorelands, is not significant or can be removed at costs deemed warranted by the department. If the waterbody is not found in the Wisconsin register of waterbodies database, department staff will make a determination on whether to add the waterbody to the register as a lake or flowage.

Note: The Wisconsin Register of Waterbodies, which is the state’s official electronic database for identification of surface waters of the state, is maintained by the Bureau of Fisheries Management and Habitat Protection and is available for inspection at the Department’s offices at 101 S. Webster Street, Madison, and at DNR service centers.

Note: The fact that a lake is located in proximity to an urban area does not exclude it from the definition of wild lake.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.53 Priority wild lake identification. The department shall consider the following priorities for stewardship grants or department projects for acquisition of property, not listed in order of priority.

(1) Existence of no or low levels of structural development on adjacent shoreland.

(2) Lakes or flowages with larger surface area.

(3) The extent to which water quality, and fish and wildlife habitat are threatened by development.

(4) The extent to which the lake provides habitat for rare species or harbors high quality natural communities.

(5) The extent to which the lake provides quality habitat for fish and wildlife.

(6) The extent to which threats to water quality, and fish and wildlife habitat can be protected through acquisition of property as determined by the percent of the lake’s shoreline or watershed captured by the acquisition.

(7) Degree to which the acquisition adds to previously acquired shorelands along the lake or the extent that the acquisition continues or completes a previously started project.

(8) Extent to which the acquisition reduces fragmentation of terrestrial or aquatic habitat as evidenced by the proximity to other public lands, clusters of lakes, and linkages to other surface waters.

(9) Other unique features, including but not limited to natural scenic beauty, archaeological, geological or cultural features.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.54 Grants for wild lakes. (1) Nonprofit conservation organizations are eligible to apply for grants to acquire property to protect wild lakes.

(2) The department shall evaluate and award grants for wild lakes projects according to the priorities listed in s. NR 51.53.

(3) Application shall be made on forms provided by the department. Application procedures and deadlines in subch. II apply to this subchapter.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

Subchapter VII — Stream Bank Protection

NR 51.60 Purpose. The purpose of this subchapter is to establish the administrative framework for the implementation of the state’s stream bank protection program to protect water quality and fish habitat of streams.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; am. Register, June, 1994, No. 462, eff. 7-1-94.

NR 51.61 Applicability. This subchapter applies to the department program to acquire property under s. 23.094, Stats., and to stream bank protection grants to nonprofit conservation organizations pursuant to s. 23.096, Stats.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; am. Register, June, 1994, No. 462, eff. 7-1-94; emerg. am. eff. 9-1-00; CR 00-135: am. Register July 2001, No. 547 eff. 8-1-01.

NR 51.62 Definitions. In this subchapter:

(1) “Management plan” means a written plan describing conditions and activities which shall be enforced and allowed on property acquired by the department under s. 23.094, Stats.

(2) “Landowner” means any individual, partnership, corporation, municipality, town, county or person holding title to or having an interest in land.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; r. and recr. (1), r. (3) and (4), Register, June, 1994, No. 462, eff. 7-1-94; emerg. r. and recr. (intro.), am. (1) and (2), eff. 9-1-00; CR 00-135: r. and recr. (intro.), am. (1) and (2), Register July 2001, No. 547 eff. 8-1-01.

NR 51.63 Priority stream identification. Streams shall be identified by the department as priority streams for department projects, using the following criteria, not listed in order of priority:

(1) The extent to which the water quality and fish habitat of the stream are threatened by urban or agricultural runoff. Streams shall satisfy this criterion to a reasonable extent to be considered further.

(2) The extent to which the threat to water quality and fish habitat of the stream can be protected through the acquisition of property. Streams shall satisfy this criterion to a reasonable extent to be considered further.

(3) Streams satisfying subs. (1) and (2) shall be further prioritized based on the following:

(a) The extent to which the stream project provides protection of endangered or threatened resources including natural communities and habitat for rare species.

(b) The inclusion of the stream in or adjacent to other department projects.

(c) A determination by the department that the stream’s riparian lands are enrolled in the federal or state programs specified in s. 23.094 (2) (c), Stats., or other federal or state programs that protect or enhance water quality or fish habitat.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; r. and recr. Register, June, 1994, No. 462, eff. 7-1-94; emerg. am. (2), eff. 9-1-00; CR 00-135: am. (2), Register July 2001, No. 547 eff. 8-1-01.

NR 51.64 Management plans. The department shall prepare a management plan for each stream or stream segment on which it intends to acquire stream bank property.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; r. and recr. Register, June, 1994, No. 462, eff. 7-1-94; emerg. am. eff. 9-1-00; CR 00-135: am. Register July 2001, No. 547 eff. 8-1-01.

NR 51.65 Land management conditions. (1) The following activities are prohibited on stream bank property acquired unless specifically approved by the department in the management plan:

- (a) Alteration of vegetative cover or other natural features.
- (b) Planting or production of agricultural crops.
- (c) Mowing, grazing or spraying the land with chemicals except to comply with noxious weed control laws in ss. 23.235 and 66.0407, Stats., or to control pests on an emergency basis when such control is necessary to protect public health.

(2) Whenever possible, the property shall include land within at least 66 feet from either side of the stream. Riparian wetlands and lands at least 66 feet from the edge of the wetland shall be included whenever possible.

(3) The department shall purchase and install or pay the cost of purchasing and installing fencing the department determines necessary to protect a stream for which an easement has been acquired.

(4) A landowner subject to an easement may be required to seed native grass or a grass-legume mixture on the land at rates determined by the department to establish and maintain perennial cover or to plant trees on the land subject to the easement.

(5) The department may allow installation and maintenance of management practices meeting USDA soil conservation service standards, such as cattle stream crossings, riprap and cattle watering areas, if the management practice does not conflict with the purpose of an easement.

(6) Public access to an eased area may be a condition of an easement if the public use does not conflict with the purpose of the easement.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; r. and recr. Register, June, 1994, No. 462, eff. 7-1-94; emerg. am. (1) (intro.), (2), (4) and (6), eff. 9-1-00; CR 00-135: am. (1) (intro.), (2), (4) and (6), Register July 2001, No. 547 eff. 8-1-01.

NR 51.66 Grants to nonprofit conservation organizations. The department may award grants to nonprofit conservation organizations to acquire property on stream corridors which meet the criteria established in s. NR 51.63.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; r. and recr. Register, June, 1994, No. 462, eff. 7-1-94; emerg. am. eff. 9-1-00; CR 00-135: am. Register July 2001, No. 547 eff. 8-1-01.

Subchapter VIII — State Trails

NR 51.70 Purpose. (1) The purpose of this subchapter is to encourage and provide for the establishment of a balanced system of state trails, for use by equestrians, bicyclists, cross-country skiers or hikers as provided in s. 23.175, Stats. Increasing demand for trail-based recreation, and promoting the preservation of public access to, travel within, and enjoyment and appreciation of the outdoor resources, will be provided by establishing state trails which are:

- (a) Near urban areas or near or within scenic, historic and culturally significant areas,
- (b) Likely to receive significant use, and
- (c) Of more than local significance.

(2) The department may designate state trails which meet the purposes of s. 23.175, Stats., as a part of the state trail system. The department may provide for or assist in the acquisition of state trails by nonprofit conservation organizations, and enter into agreements with nonprofit conservation organizations or governmental units for their development, administration and management.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; correction in (1) (intro.) made under s. 13.93 (2m) (b) 12., Stats., Register, June, 1994, No. 462; emerg. am. (2), eff. 9-1-00; CR 00-135: am. (2), Register July 2001, No. 547 eff. 8-1-01.

NR 51.71 Applicability. The provisions of this section are applicable to all state trails established under s. 23.175, Stats., and the Ice Age trail as established under ss. 23.17 and 23.293, Stats.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90.

NR 51.72 Definitions. In addition to the definitions in s. NR 51.002, the following definitions apply to this subchapter:

(1) "Ice age trail" means the trail established under s. 23.17, Stats.

(2) "Certified" means the recognition and signing by the national park service of completed segments of the Ice Age trail as provided for in the Ice Age national scenic trail comprehensive plan for management and use, national park service, 1983.

(3) "North Country trail" means the national scenic trail established under public law 96-199.16, USC 1244 (2) (8).

(4) "State trail system" means the recreational trails designated by the legislature or the department pursuant to s. NR 51.73.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; emerg. r. (2), renum. (3) to (5) to be (2) to (4), eff. 9-1-00; CR 00-135: r. (2), renum. (3) to (5) to be (2) to (4), Register July 2001, No. 547 eff. 8-1-01.

NR 51.73 Designation. (1) The Ahnapee, "400", Badger, Bearskin, Buffalo River, Chippewa River, Elroy-Sparta, Friendship, Fox River, Gandy Dancer, Glacial Drumlin, Great River, Green Bay/Wausau, Green Circle, Hillsboro, La Crosse River, Military Ridge, Mountain Bay, Nicolet, Old Abe, Pecatonica, Red Cedar, Saunders, Sugar River, Tomorrow River, Tusconbia, Urban, White River, Wild Goose, Wild Rivers and Wiouwash state park trails are designated as state trails.

(2) The Ice Age trail as established in s. 23.293, Stats., is a state trail.

(3) Nonprofit conservation organizations and governmental units may nominate, in writing, additional trails for state trail designation. Nominations shall document that nominated trails meet the purposes of this subchapter, and provide recreational opportunities for equestrians, bicyclists, cross country skiers or hikers, and that the trail is:

- (a) Reasonably accessible to urban areas, or
- (b) Within or in close proximity to areas of significant natural beauty, historical or cultural significance, state or national parks, forests or recreational areas, or provides connections to existing state trails, and
- (c) Of a width sufficient to provide the purposes for which acquired, generally not less than 33 feet wide in rural areas and not less than 10 feet wide in urban areas, nor have more than 25 acres per mile averaged over a 5 mile distance.

(d) Likely to receive significant use as determined by the state comprehensive outdoor recreation plan, or similar study, and

(e) There is a reasonable expectation of completing the necessary land acquisition and development, and of successful management and operation.

(4) Upon finding that the conditions in sub. (3) are met, the department may designate the trail as a state trail.

(5) The department may designate state trails on its own properties if they meet the criteria in sub. (3).

(6) The department may remove a state trail, except the Ice Age trail, from state trail designation upon finding that it is not being reasonably operated and maintained by the owner or operator, or is not reasonably likely to meet the purpose of the state trail system.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; am. (1), Register, June, 1994, No. 462, eff. 7-1-94; am. (1), Register, February, 1996, No. 482, eff. 3-1-96; emerg. am. (1) and (3) (intro.), eff. 9-1-00; CR 00-135: am. (1) and (3) (intro.), Register July 2001, No. 547 eff. 8-1-01.

NR 51.74 Grants for state trails. (1) The department may make grants to nonprofit conservation organizations to

acquire lands for a state trail if the proposed state trail is first designated by the legislature or the department under s. NR 51.73.

(2) If all conditions of s. NR 51.73 are met, the department shall give higher priority to projects for those trails that meet the following:

- (a) Provide connections between other state trails.
- (b) Are of a length sufficient to provide at least one day's recreational experience.
- (c) Provide connections to resource areas of statewide significance or areas of outstanding natural scenery.
- (d) Provide for more than one use.
- (e) Contribute to a geographically balanced system of trails.
- (f) Are related to brownfields redevelopment as defined in s. 23.09 (19) (a) 1., Stats.

(4) The department may grant funds under s. 23.175, Stats., to nonprofit conservation organizations for the acquisition of scenic easements on lands that provide exceptional scenic value adjacent to or in the vicinity of state trails.

(5) In addition to the provisions in sub. (1), the department may acquire lands for the Ice Age trail out of monies appropriated under s. 20.866 (2), Stats., and dedicate them under the provisions of s. 23.293, Stats. The department may acquire lands for the Ice Age trail as provided for in s. 23.293, Stats., only in project areas approved by the natural resources board.

(6) (a) The department may expend funds received under the provisions of s. 20.370 (7) (fa), Stats., for the purchase of equipment and materials for the maintenance of the Ice Age trail. Purchase may include leasing under the provisions of s. 16.754 (1) (d), Stats.

(b) Portions of the Ice Age trail eligible for funding under this subsection are those under the ownership and management of the department, or those dedicated to the department under the provisions of s. 23.293, Stats., and managed by another party under the provisions of a management contract with the department, or recognized by the department, or certified by the national park service. Portions eligible for funding shall also meet the standards of the Ice Age national scenic trail. Sections where the trail overlaps developed, multi-use trails are not eligible for funding.

Note: Standards for the Ice age national scenic trail may be obtained from the DNR, Bureau of Parks and Recreation, Box 7921, Madison, WI 53707.

(c) The department may expend the funds as grants. Nonprofit conservation organizations or governmental units managing portions of the Ice Age trail under the provisions of par. (b) may nominate maintenance projects on the appropriate department form, and include a cost estimate and at least 2 quotes to support cost estimates for items above \$500.00. The grant amount shall be 50% of project costs. Eligible project costs are defined in s. NR 51.09.

Note: The appropriate department form may be obtained from the Bureau of Community Financial Assistance, Department of Natural Resources, P.O. Box 7921, Madison, WI 53707.

(d) The department shall give priority to those portions of the Ice Age trail providing significant public use, or where the maintenance expenditure will protect the resource or public safety or comfort, or those portions under the ownership of a governmental unit or a nonprofit conservation organization and managed by a governmental unit or a nonprofit conservation organization and where the nonprofit conservation organization has a recorded interest in the land.

(e) Sponsors shall apply for federal and state permits, approvals, licenses and waivers necessary to implement the project. If a project is on land not owned by the sponsor, the landowner shall be a party to any permit application. Work on the project may not begin until all applicable permits have been obtained.

(f) Upon signing the grant agreement, the sponsor may request up to 100% of the grant amount. The department may require

proof that the sponsor has the remaining funds needed for the project.

Note: Other conditions for grant payments are contained in s. NR 51.09.

(g) If the sponsor fails to fulfill any terms of the grant agreement, the department may seek reimbursement of all or a portion of the state's share.

Note: The appropriate department form may be obtained from the Bureau of Parks and Recreation, Department of Natural Resources, P.O. Box 7921, Madison, WI 53707.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; am. (6) (d), Register, February, 1996, No. 482, eff. 3-1-96; emerg. am. (2) (intro.) to (d), (4) and (6) (b), cr. (2) (f) and (6) (e) to (g), r. (3) and (6) (c), renum. (6) (d) and (e) to be (6) (c) and (d) and am., eff. 9-1-00; CR 00-135: am. (2) (intro.) to (d), (4) and (6) (b), cr. (2) (f) and (6) (e) to (g), r. (3) and (6) (c), renum. (6) (d) and (e) to be (6) (c) and (d) and am., Register July 2001, No. 547 eff. 8-1-01; correction in (6) (a) was made under s. 13.93 (2m) (b) 7., Stats., Register July 2001, No. 547.

NR 51.75 Grant contracts. Grant contracts between the department and sponsors for state trail acquisition and management shall, in addition to the requirements in subch. II, require the sponsor to:

- (1) Acquire the lands for a trail, where applicable.
- (2) Specify which uses shall be permitted and managed for,
- (3) Construct, maintain, operate and repair as necessary a recreational trail for the purpose of horseback riding, bicycling, cross-country skiing, hiking or other compatible uses as authorized by the department.
- (4) Prohibit hunting on the state trail unless specifically authorized by the department.
- (5) Keep the state trail open for public use after completion of the land acquisition and development. If the state trail ever ceases to be used for state trail purposes, then all rights shall revert to the department without necessity of reentry. The department has no obligation to develop and operate the trail and all permanent improvements made to the trail by the sponsor or its agent shall become the property of the department.
- (6) Open the state trail to the general public, subject to reasonable rules and regulations, as the managing cooperator deems necessary for the management and operation of the state trail and as approved in writing by the department.
- (7) Develop the state trail to conform with department state trail standards (department Manual Code 2540.5) or other reasonable standards as approved by the department.
- (8) Assume the responsibility for all fencing, signing and similar activities which are related to the development, maintenance and operation of the state trail.
- (9) Prepare all necessary plans, specifications and environmental reports, including citizen participation, for the state trail, and submit them to the department for written approval prior to the commencement of any development or improvement. Any changes of use or development of the state trail shall be performed in accordance with general plans submitted to and approved by the department.
- (10) Provide the necessary maintenance including but not limited to, grading, landscaping and controlling vegetative growth on the state trail and any parking areas or use areas to keep the property in a good state of useability and sightliness.
- (11) Provide or arrange for the necessary enforcement and security of the state trail to ensure efficient, safe use, and to preserve and protect public health, safety and welfare.
- (12) Provide liability insurance if requested by the department.
- (13) If the trail is also a part of the Ice Age trail or the North Country trail and it qualifies for certification as a component of a national scenic trail, the managing cooperator shall, upon completion of the trail development, and where feasible, apply to the national park service for certification as a component of the Ice

Age national scenic trail, or North Country national scenic trail and sign the trail accordingly.

(14) Permit the department to inspect the trail to ensure compliance with the provisions of the contract.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; emerg. am. (intro.), (5) and (13), eff. 9-1-00; CR 00-135: am. (intro.), (5) and (13), Register July 2001, No. 547 eff. 8-1-01.

Subchapter IX — Grants for State Property Development

NR 51.80 Purpose. The purpose of this subchapter is to establish criteria and procedures for awarding stewardship grants to friends groups and nonprofit conservation organizations for development projects under s. 23.098, Stats.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.81 Applicability and definitions. This subchapter is applicable to friends groups as defined in, organized for, and under agreement with the department pursuant to s. 23.098 (1), Stats., and s. NR 1.71, and nonprofit conservation organizations that apply for grants to undertake development projects on department properties.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.82 Allocation of funds. The department may allocate up to \$250,000 each year under the subprogram for property development and local assistance, under s. 23.0917 (4), Stats., for grants to friends groups and nonprofit conservation organizations. The department may not obligate or encumber more than \$20,000 in each fiscal year for any one department property.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.83 Eligible projects. The department may award a grant for a project that meets all of the following requirements:

(1) The project is for nature-based outdoor recreation as defined in s. NR 51.002 (19);

(2) The project addresses unmet needs consistent with department approved plans for the property, unless the project is for a state trail managed and maintained by a governmental unit or other cooperator with a memorandum of agreement with the department;

(3) The project is identified in a property's 6 year facilities plan, unless the project is described in s. NR 51.84 (2) (e) or the project is for a state trail managed and maintained by a governmental unit or other cooperator with a memorandum of agreement with the department; and

(4) The project makes long-term capital improvements or installs durable equipment with an expected useful life of 20 years or more, unless it is described in s. NR 51.84 (2) (e).

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.84 Priorities. (1) Projects submitted by friends groups shall receive priority over projects submitted by nonprofit conservation organizations.

(2) Priority shall be given to the following projects, not listed in order of priority:

(a) Projects where the stewardship grant leverages other funding in addition to the 50% sponsor match.

(b) Projects that expand recreation opportunities.

(c) Projects that address public health, environmental, safety or security problems.

(d) Capital improvement projects that expand or improve environmental education, interpretation programs, or outdoor skills development.

(e) Habitat restoration projects that are consistent with approved plans governing the management of the property.

(3) Additional factors that may be considered when awarding grants for projects on property owned and managed by the department are:

(a) Whether the project enhances or is cooperative with a department capital improvement.

(b) Whether the capital improvement or durable equipment project supports volunteer-based user services.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.85 Application and grant award procedures.

(1) Applications for stewardship grants shall be submitted to the property manager on forms provided by the department. Applications shall include a detailed description of the proposed project, a cost estimate, timetable and other information required by the department.

Note: A copy of the application form may be obtained from the DNR, Bureau of Community Financial Assistance, Box 7921, Madison 53707.

(2) The department shall establish one or 2 application deadlines each year and shall evaluate and prioritize applications received by those deadlines according to the priorities in this subchapter. Funds shall be allocated to projects based upon their priority until funding is exhausted. Sponsors whose projects are not funded will receive an explanation of eligibility or priority ranking results. Sponsors may request that their projects be reconsidered in another fiscal year if the project is eligible for funding. Resubmissions will be judged without prejudice or preferential priority.

(3) Grant applications shall be developed cooperatively with the property manager.

(4) Any environmental assessments, historical or cultural assessments, permits and miscellaneous approvals required to implement the project shall be the responsibility of the department. Work may not begin until all applicable permits have been obtained.

(5) The department may award grants for up to 50% of project costs. The sponsor shall provide the other 50% of project costs. Up to 50% of the sponsor's share of project costs may be donated materials, equipment, services and labor, according to the provisions in s. NR 51.09 (1) (c).

(6) The department may advance up to 100% of the grant payment to the sponsor once the sponsor provides documentation that it has its share of project costs.

(7) Projects may be completed in up to 3 phases and funded for a maximum of 3 fiscal years, subject to the project's annual priority ranking and availability of funds. No sponsor may receive more than \$60,000 under this subchapter for any one project that is completed in phases. A sponsor shall complete a usable component of the project at the end of each phase. The department may require that one phase be completed before it awards a grant for the next phase.

(8) Each sponsor that receives a grant award shall maintain accurate and complete financial records of project expenses in accordance with generally accepted accounting principles and practices. A final report, which documents project expenses, shall be submitted to the department property manager within 90 days of the completion of the project or by the date indicated in the grant agreement, whichever is sooner. If expenses for the project are less than estimated, the sponsor shall return unused grant funds with the final report.

Note: Copies of the department's financial reporting requirements and forms are available from the DNR, Bureau of Community Financial Assistance, Box 7921, Madison, WI 53707.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

Subchapter X — Baraboo Hills

NR 51.880 Purpose. The purpose of this subchapter is to establish standards and procedures for implementation of a grant program for governmental units and nonprofit conservation orga-

nizations to acquire property under s. 23.0917 (4m), Stats. Grants shall be used only to acquire property for conservation purposes in the Baraboo hills.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.881 Applicability. This subchapter is applicable to governmental units and nonprofit conservation organizations, lake sanitary districts as defined in s. 30.50 (4q), Stats., and public inland lake protection and rehabilitation districts applying for grants for the acquisition of property for the purposes set forth in s. 23.0917 (4m), Stats.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.882 Definitions. In this subchapter, "Baraboo hills" means the area within the boundaries of the Baraboo Range national natural landmark, as officially designated by the national park service as of March 29, 1999.

Note: A map showing the boundaries of the Baraboo Range national natural landmark is available from the DNR, Bureau of Community Financial Assistance, Box 7921, Madison, WI 53707.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.883 Application and grant award procedures. (1) Sponsors shall submit applications on the prescribed department form. The department may consider applications as they come in, year-round, to the extent that funds are available, or if substantially oversubscribed for available funding, the department may establish application deadlines in order to evaluate and prioritize competing applications.

(2) Grants for the acquisition of property shall be distributed according to the standards and priorities in this subchapter.

(3) Grants shall be for any amount up to and including 100% of the lesser of the purchase price paid by the sponsor plus eligible acquisition costs, or the fair market value of property as established by department appraisal guidelines plus eligible acquisition costs.

(4) If a sponsor accepts a grant for any amount less than 100% of the fair market value of the property plus eligible acquisition costs, the remaining value shall be certified as matching property acquisition under sub. (7) (b).

(5) Acquisition of eligible property may occur at any time on or after October 29, 1999.

(6) The department shall notify successful sponsors and send a grant contract or grant agreement to the sponsor which shall be signed by both the department and the sponsor before any funds can be released to the sponsor.

(7) Grants may not be awarded until the following 2 criteria are met:

(a) The Wisconsin department of transportation has certified to the department that highway construction that will result in at least 4 traffic lanes has begun on the portion of USH 12 between the city of Middleton and the village of Sauk City.

(b) Matching property acquisition of sufficient valuation to equal or exceed the value of any grants given through this program shall be certified by the department according to department appraisal guidelines. Matching property acquisition shall meet the following requirements:

1. The acquisition shall provide for the perpetual protection of the conservation values of the property.

2. The funds used for the acquisition shall be federal non-transportation funds, governmental unit funds or nonprofit conservation organization funds.

3. The acquisition shall be in the Baraboo hills.

4. The acquisition shall have closed on or after October 29, 1999.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.884 General provisions. (1) In order to be eligible for funding under this subchapter, acquisition of property shall:

(a) Shall be located in the Baraboo hills. Property located within the acquisition boundary of any state park or state-owned natural area as of March 29, 1999 is not eligible for grants under this subchapter.

(b) Provide for the perpetual protection of the conservation values of the property. Temporary agreements do not qualify for funding.

(c) Contribute to protection of the forest resource in the Baraboo hills.

(d) Be from willing sellers.

(2) Property that is forested at the time of acquisition shall be maintained as forest. Forested lands may only be commercially harvested for timber in accordance with a forest management plan. If the property is acquired in fee by the sponsor, the forest management plan shall be approved by the department. If the acquisition is for an easement, the easement shall provide that if the landowner chooses to do forest management, it shall be done in accordance with a forest management plan approved by the party acquiring the easement.

(3) An easement acquired with grant funds may not prohibit the landowner from the future conversion of any unforested portions of the land to forest land appropriate to the site.

(4) The application shall include a comprehensive description of the sponsor's plans for future monitoring and management of the property.

(5) Property acquired under the Baraboo hills grant program may not be converted to uses other than conservation.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.885 Priorities. (1) The department shall select property for financial assistance in accordance with the following priorities which are not listed in order of priority:

(a) Acquisitions with significant natural features identified in the natural heritage inventory or other plan identifying natural resources of regional or national significance.

(b) Acquisitions which are identified for conservation or recreation in a plan approved by a governmental unit.

(c) Acquisitions within or contiguous to a large forested block.

(d) Acquisitions maximizing the protection of other large forested blocks.

(e) Acquisitions showing little effect of human disturbance and supporting a wide variety of species appropriate to native forest tracts.

(f) Acquisitions affording opportunities for forest restoration.

(2) The department shall also consider the following other factors, not listed in priority order, but they shall be of lower priority than the priorities listed in sub. (1):

(a) Acquisitions that satisfy a relevant statewide or department regional priority need identified in the statewide comprehensive outdoor recreation plan need analysis.

(b) Acquisitions that provide and enhance outdoor, natural resource related recreation opportunities.

(c) Acquisitions that involve a joint effort by 2 or more eligible sponsors.

(d) Acquisitions that have substantial community support.

(e) Acquisitions that have significant aesthetic value.

(f) Acquisitions that implement elements of water quality plans or initiatives.

(g) Acquisitions that are accessible, where accessibility is appropriate.

(h) Acquisitions that have water frontage.

(i) Acquisitions that connect to other conservation lands.

(j) Acquisitions that protect sensitive wildlife habitat.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

Subchapter XI — Governmental Units

NR 51.901 Purpose. The purpose of this subchapter is to establish standards and procedures for grants to governmental units.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.902 Applicability. This subchapter is applicable to towns, villages, cities, counties, lake sanitary districts, as described in s. 30.50 (4q), Stats., public inland lake protection and rehabilitation districts, and the Kickapoo reserve management board that apply to the department for urban greenspace grants under s. 23.09 (19), Stats., subch. XIII, aids for the acquisition and development of local parks under s. 23.09 (20), Stats., and subch. XII, acquisition of development rights grants under s. 23.09 (20m), Stats., and subch. XV, and urban rivers grants under s. 30.277, Stats., and subch. XIV.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.903 Definitions. In this subchapter:

(1) “Basic facilities” means the minimum improvements necessary and reasonable to enable people to safely use recreational lands.

(2) “Force account” means with the resources of the sponsor, including personnel services or labor, equipment and materials.

(3) “Local share” means the portion of the acquisition or development cost that is not funded by the state. Eligible sources of local share may include cash from the sponsor; grants or contributions from foundations, organizations, businesses and private individuals; and funds from the federal government except as provided in s. 30.277 (5), Stats. Local share may also mean property contributions from a third party if the contribution is made within the 3 years prior to the acquisition and is considered by the department to be part of the project or eligible for that stewardship grant program.

(4) “SCORP” means the statewide comprehensive outdoor recreation plan prepared by the department.

Note: A copy of the statewide comprehensive outdoor recreation plan is available from the DNR, Bureau of Community Financial Assistance, Box 7921, Madison, WI 53707.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.904 General provisions. (1) The sponsor shall manage property purchased and facilities developed with stewardship funds to preserve and enhance the conservation and recreation values of the property.

(2) Project boundaries for acquisition and development projects that are submitted with grant applications and approved by the department may not be altered without the approval of the department.

(3) **PROPERTY USES INCONSISTENT WITH THE STEWARDSHIP PROGRAM.** (a) The sponsor may not convert property purchased or facilities developed with a stewardship grant to uses that are inconsistent with the stewardship program or the grant agreement, without the approval of the department. The sponsor shall record this restriction in the appropriate county register of deeds office as part of the deed received by the sponsor for the property purchased.

(b) If a sponsor converts property to an inconsistent use not approved by the department, the sponsor shall return the property to the use specified in the grant agreement or the sponsor shall replace the property with a different property, approved by the department. The replacement property shall be of at least equal

value and benefit to the stewardship grant program as the property that was converted.

(c) If a sponsor converts a facility to an inconsistent use not approved by the department, the sponsor shall return the facility to the use specified in the grant agreement, or replace the facility with one of equal value used for the same purpose, or return the stewardship grant funds to the department.

(4) Sponsors shall comply with applicable state and federal regulations concerning bidding and awarding contracts, land acquisition, relocation, wage and labor rates, general and special zoning, land use permit requirements, access for persons with disabilities, flood disaster protection, environmental quality, and historical and archaeological preservation.

(5) A sponsor shall agree to comply with stewardship grant program requirements for a property purchased with a stewardship grant in perpetuity. A sponsor shall be responsible for operation and maintenance of a facility purchased with a stewardship grant.

(6) A sponsor may charge reasonable entrance, service or user fees to pay for operation and maintenance costs.

(7) The department shall have access to and may conduct compliance inspections of acquisition and development projects for which grant assistance has been provided under this chapter. The department may require project sponsors to conduct self-inspections of these properties.

(8) The following requirements apply to acquisition projects:

(a) Applications shall include a comprehensive description of the project proposal and a management plan identifying proposed land use of the area to be acquired including areas to be restored or developed, operation and maintenance, public access provisions and future land uses. The plan shall include a site plan for the property that identifies items such as land forms, water features, forest types, trail systems and wildlife habitat.

(b) Title to property acquired with a stewardship grant shall vest in the sponsor, except when acquired by the Kickapoo reserve management board where title shall vest in the state.

(c) The sponsor shall reimburse to the department one-half of all receipts from the sale of any structures or improvements that were included in the acquisition cost.

(d) The sponsor shall use income accruing to the sponsor from a property receiving a stewardship grant to further the objectives of the project as stated in the grant agreement unless the department authorizes the income to be used to further the objectives of another stewardship project.

(e) Property acquired with a stewardship grant may be entered under the county forest law, according to s. 28.11, Stats. In such instances, the provisions of s. 28.11, Stats., relating to distribution of income derived from the property, shall apply and s. NR 51.904(8)(d) is not applicable.

(f) Sponsors shall acknowledge the state’s assistance in acquiring fee title ownership of a property, and provide notice of public access, by placement of signs or in any other manner approved by the department.

(g) Sponsors shall treat landowners fairly and negotiations between the sponsor and landowner shall be conducted on a willing seller – willing buyer basis. Lands acquired through condemnation and facilities developed on lands acquired through condemnation are not eligible for grant funds.

(h) The department shall approve any easement document before grant payments are made.

(i) The department shall have access to property on which an easement is acquired with a stewardship grant, in a reasonable manner upon prior notice to the project sponsor and the landowner, to monitor compliance with the conditions of the grant agreement. The conditions of that access shall be contained in the easement agreed to by the landowner, or in the grant agreement if the agreement has been agreed to and signed by the landowner.

The department may grant variances to this access requirement in extraordinary situations according to the procedure in s. NR 51.003.

(j) When a stewardship grant is awarded for acquisition of an easement, the sponsor shall prepare a baseline document, approved by the landowner and available to the department for inspection, before grant payments are made.

(k) The sponsor shall monitor any easement acquired with a stewardship grant at least once a year to ensure that the provisions of the easement are being satisfied. The sponsor shall compare the condition of the property with the baseline document, and shall enforce all easement provisions.

(L) The holder of any mortgage or land contract on easement property shall subordinate their rights to the terms of the easement before grant payments are made.

(9) The following requirements apply to development projects:

(a) Before development of public facilities begins, other state agencies may require formal project approval concerning health, safety and sanitation requirements, and historical and environmental considerations. Sponsors shall apply for federal and state permits, approvals, licenses or waivers necessary to implement the project. The sponsor may not begin work until all applicable permits have been obtained.

(b) The department may award stewardship grants for development projects on property not owned by the sponsor provided the sponsor has a lease of 20 years or more, and oversight and control of the property for at least 20 years.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.905 General priorities. Except in fiscal year 2001, factors that shall be considered in rating projects under ss. 23.09 (19), (20) and (20m) and 30.277, Stats., include:

(1) Whether or not a community has or is developing a comprehensive plan pursuant to s. 66.1001, Stats.

(2) Whether the comprehensive planning incorporates inter-governmental cooperation.

(3) Whether the project is supported by or is part of a comprehensive plan prepared pursuant to s. 66.1001, Stats.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.906 Application and grant award procedures. (1) Project sponsors shall submit applications on prescribed department forms to the appropriate region office by May 1 of each year, except as provided in s. NR 51.943 (2).

Note: Application forms are available from department region offices.

(2) The department shall evaluate and rank completed applications to determine which sponsors shall receive grants under ss. 23.09 (19), (20) and (20m) and 30.277, Stats.

(3) The department shall fund projects in priority order within each grant program until all grant funds available within a program have been awarded.

(4) The department shall notify all sponsors as to their success in obtaining a grant and shall send a grant agreement.

(5) Property acquisition and development projects may not begin prior to the project period start date except as provided in s. NR 51.907 (1) (b) for retroactivity of land acquisition costs and s. NR 51.907 (2) (a) 4. for retroactivity of engineering and planning fees.

(6) Project activities and costs incurred shall be within the project period, project scope and project amount as shown on the grant agreement.

(7) The sponsor may request a change in project period, scope or grant amount prior to the project period end date.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.907 Grant awards. (1) **LAND ACQUISITION PROJECTS.** (a) *Grant cost share.* Except for grants issued under s. 23.0917 (4m) (i) and (j), Stats., for the Baraboo hills, the department shall award grants for up to 50% of the acquisition cost as determined according to s. 23.0917 (7), Stats. The grant amount may not exceed 50% of the purchase price of the property and other eligible costs specified in s. NR 51.002 (1). The remainder of the acquisition cost shall come from local share. The sponsor shall indicate all known sources of local share when the grant application is submitted.

(b) *Retroactive costs.* Land acquisition costs may be retroactive for up to one year before the grant application is submitted upon prior written approval of the department providing the sponsor can demonstrate a need to proceed at the time.

(c) *Donations.* 1. The sponsor may use up to 50% of the fair market value of a contribution of property as all or part of local share with the approval of the department, but only to the extent that stewardship grant assistance is needed to acquire the subject parcel.

2. Contributions of property are eligible as local share only if the donated property is eligible for the same stewardship grant program as the property being acquired. The donated property shall be encumbered by the conditions and restrictions of the stewardship program as described in s. NR 51.904 (3).

3. The fair market value of property used as a donation shall be determined by appraisal according to department appraisal guidelines.

4. The amount of the property donation that can be used for the local share shall equal the value of the donation or the amount of cash needed by the sponsor for the purchase, whichever is less, so there will be no grant payment in excess of the moneys actually needed for the purchase.

5. If approved by the department, any carry-over value from an approved property donation that is not utilized as local share in an application may be used for local share in subsequent applications in the fiscal year in which the first application was submitted and the following fiscal year.

Note: For example, land valued at \$20,000 is donated to the project sponsor who then purchases another property under that stewardship program for \$8,000. The appraised value of the purchased property is \$12,000. The total project value is \$32,000 and the local share would normally be \$16,000. But because only \$8,000 was actually spent to purchase the land, and since a grant in excess of that would constitute a profit to the sponsor, the state share is reduced to \$8,000. The remaining \$8,000 in donor value may be used by the sponsor in subsequent applications in that fiscal year and the following fiscal year.

6. Property acquired through a lawfully required subdivision parkland dedication is not eligible to be used as local share.

(2) **DEVELOPMENT PROJECTS.** (a) *Grant cost share.* The department may issue grants for up to 50% of necessary development project costs that are consistent with the project scope and incurred during the project period. The sponsor shall indicate all known sources of the local share when the grant application is submitted. Eligible costs include, but are not limited to:

1. Labor costs including force account labor directly related to and required for completing the project. Costs shall be based on the actual wage rate paid by the sponsor including salary and fringe benefits.

2. Direct costs for materials and equipment used for project-related purposes over their useful life or in the case of force account materials or equipment time, the cost of the portion used for the project.

3. The cost of leased equipment used for project related purposes. The cost of the use of equipment owned by the sponsor may not exceed the county highway rates established annually by the department of transportation.

Note: The county highway rates for equipment are formulated under s. 84.07, Stats., and can be found in chapter 5 of the State Highway Maintenance Manual published by the Wisconsin Department of Transportation, 4802 Sheboygan Ave., Madison 53705.

4. Engineering or planning fees necessary to complete the project. These costs may be retroactive.

(b) *Donations.* The substantiated value of materials, equipment, professional services or labor donated for the project may be used as all or part of the local share of the project cost subject to all of the following:

1. All known sources of the local share shall be indicated when the grant application is submitted.

2. The maximum value of donated, non-professional, labor shall be equal to the prevailing federal minimum wage requirements.

3. The value of donated materials and professional services shall conform to market rates and be established by invoice.

4. The value of donated equipment use shall conform to the Wisconsin department of transportation highway rates for equipment.

Note: The county highway rates for equipment are formulated under s. 84.07, Stats., and can be found in chapter 5 of the State Highway Maintenance Manual published by the Wisconsin Department of Transportation, 4802 Sheboygan Ave., Madison 53705.

5. The value of an approved property donation may be used as local share for a development project.

(c) *Ineligible costs.* Costs not directly associated with or necessary for the implementation of the project are ineligible for grant funding. Ineligible costs include, but are not limited to:

1. Fines and penalties due to violation of, or failure to comply with, federal, state or local laws and regulations.

2. Indirect costs including administrative costs.

3. Costs for which payment has been or will be received from any other funding source.

4. Costs associated with operation and maintenance of parks and other outdoor recreation areas and facilities.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.908 Grant payments. (1) Sponsors may request an advance payment of up to 50% of the grant amount at the time the grant agreement is signed by the department and project sponsor.

(2) The department may approve final grant payments when the following conditions have been satisfied:

(a) The sponsor has submitted a claim supported by appropriate evidence of project expenditures. Accounting for all stewardship grants shall be in accordance with generally accepted accounting principles and practices. Financial records including documentation to support accounting records shall be available for review by state officials for a period of 4 years after final payment.

(b) For land acquisition projects, the value of the property has been approved by the department according to department appraisal guidelines.

Note: The department's appraisal guidelines are available from any DNR region office or the DNR Bureau of Community Financial Assistance, Box 7921, Madison, WI 53707.

(c) All requirements and conditions under ss. 23.09(19), (20) and (20m) and 30.277, Stats., this chapter, and the grant agreement have been complied with.

(3) The sponsor shall submit all claims for payment on department prescribed forms.

(4) The sponsor shall submit claims for final reimbursement within 6 months of the project period end date.

(5) The department may withhold final payment of the grant amount until all project, legal and program requirements have been complied with.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

Subchapter XII — Aids for the Acquisition and Development of Local Parks

NR 51.910 Purpose. The purpose of this subchapter is to establish standards and procedures for the administration of grants under s. 23.09 (20), Stats., to governmental units and non-profit conservation organizations to acquire property for nature-based outdoor recreation and to governmental units to develop property for nature-based outdoor recreation facilities.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.911 Applicability. This subchapter is applicable to governmental units applying for grants for the acquisition and development of property under s. 23.09 (20), Stats., and to non-profit conservation organizations applying for grants for the acquisition of property under s. 23.096, Stats.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.912 Definitions. In this subchapter: "Aids for the acquisition and development of local parks" means the program created under s. 23.09 (20), Stats., with funds appropriated under s. 20.866 (2) (ta), Stats.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.913 Allocation of funds. The department shall apportion funds to projects on a region allocation system. Seventy percent of the funds shall be allocated on the basis of each region's proportionate share of the state population. The remaining 30% shall be divided equally between the counties and then apportioned to each region based on the number of counties in the region.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.914 General provisions. (1) A sponsor may only use grant funds provided under this subchapter for nature-based outdoor recreation pursuant to s. 23.09 (20) (am), Stats., and support facilities for nature-based outdoor recreation.

(2) Grant sponsors shall submit a local comprehensive outdoor recreational plan or documentation that the project has been identified in a comprehensive plan pursuant to s. 66.1001, Stats., to the department in order to be eligible for aids for the acquisition or development of local parks. A plan shall be consistent with the outdoor recreation program under s. 23.30, Stats.

(3) Cost overruns beyond the original grant award may be eligible if funds are available.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.915 Eligible development projects. Development projects eligible for grant funds include, but are not limited to:

(1) Support facilities for swimming in a natural waterbody, including beaches, swimming areas and bathhouses.

(2) Fishing and hunting facilities, such as fishing piers and trails.

(3) Boating facilities such as launching ramps and docks.

(4) Observation and sightseeing facilities such as overlooks, turnouts and trails.

(5) Picnic facilities, including tables, fireplaces, shelters and paths.

(6) Camping facilities, including tent and trailer sites, tables and fireplaces.

(7) Winter sports facilities, such as slopes and trails for sledging and tobogganing, cross-country ski trails, and facilities for ice skating.

(8) Urban recreation areas, such as undeveloped play areas, bicycling trails, walking and horseback riding trails.

(9) Support facilities, including entrance and circulation roads, utility and sanitation systems, erosion control work, parking areas, toilet buildings and educational facilities where there is a permanent professional naturalist staff and the facilities are for nature interpretation.

(10) Renovation or redevelopment of existing nature-based outdoor recreation facilities or areas which have received adequate and regular maintenance but are impaired, or have become outmoded.

(11) Habitat restoration projects.

(12) Permanent landscaping and burial of overhead wires.

(13) Open shelters and multi-purpose shelter buildings which support a nature-based outdoor recreation activity.

(14) Fences and lighting for the protection of park users.

(15) Park signs.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.916 Eligible land acquisition projects. Land acquisition projects eligible for funding include, but are not limited to:

(1) Property that provides opportunities for nature-based outdoor recreation including, but not limited to parks, forests and camping grounds.

(2) Property with frontage on rivers, streams, lakes, estuaries and reservoirs that will provide water-based outdoor recreation.

(3) Property that provides special recreation opportunities, such as floodplains, wetlands and areas adjacent to scenic high-ways.

(4) Natural areas and outstanding scenic areas where the objective is to preserve the scenic or natural values, including areas of physical or biological importance and wildlife areas. These areas shall be open to the general public for outdoor recreation use to the extent that the natural attributes of the areas will not be seriously impaired or lost.

(5) Land within urban areas for day-use picnic areas.

(6) Land for nature-based outdoor recreation trails.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.917 Ineligible projects. Ineligible acquisition or development projects include, but are not limited to:

(1) Projects that are not supported by a local comprehensive outdoor recreational plan.

(2) Restoration or preservation of historic structures.

(3) Acquisition and development of areas and facilities that do not meet the definition of nature-based outdoor recreation specified in s. NR 51.002, such as spectator sports, playgrounds, swimming pools, dedicated sports fields, tennis courts and hockey rinks.

(4) Development of areas and facilities to be used for professional athletics.

(5) Development of amusement facilities, waterslides or the construction of facilities that are only marginally related to nature-based outdoor recreation.

(6) Construction of park employee residences.

(7) Development of areas and facilities to be used solely for game refuges or fish production purposes unless they are open to the public for general compatible recreation use, or if they directly serve priority public outdoor recreation needs identified in SCORP.

(8) Construction of lodges, motels, luxury cabins or similar facilities.

(9) Development projects in previously undeveloped recreation areas which consist solely of support facilities, unless the

facilities are clearly required for proper and safe recreational use of the area.

(10) Buildings primarily devoted to operation, maintenance or indoor recreation.

(11) Acquisition and development of golf courses.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.918 Priorities. The department shall evaluate and prioritize projects for grant assistance in accordance with the following project priorities, which are not listed in order of preference:

(1) Projects that provide basic facilities such as picnic and undeveloped play areas have priority over projects that provide more elaborate facilities.

(2) Projects that enhance or preserve natural beauty.

(3) Projects that provide for completion of a project already started where the sponsor has shown the ability to provide quality outdoor recreation facilities for its citizens without grant assistance.

(4) Projects to develop areas previously acquired.

(5) Projects to renovate existing facilities that are in danger of being lost for public use.

(6) Projects where the sponsors have good performance records on other recreational projects.

(7) Projects where the sponsors are financially able to adequately maintain and operate the area or facility.

(8) Projects that offer safe, rapid and convenient access by all types of transportation modes appropriate for that type of facility.

(9) Projects that, in relation to their costs, provide access for the greatest number of potential users and provide the greatest opportunities for nature-based outdoor recreation.

(10) Projects that meet needs and deficiencies identified in SCORP; or a local comprehensive outdoor recreation plan; or a comprehensive plan pursuant to s. 66.1001, Stats.

(11) Projects that provide multiple season, multiple activity use.

(12) Projects that are designed to serve the recreation needs of elderly persons, minorities and disabled persons.

(13) Projects that are shown to be regional or statewide in impact and importance.

(14) Projects that are ready to be implemented and can be completed in 2 construction seasons or less.

(15) Projects that involve the use of materials or products utilizing Wisconsin recycled products.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

Subchapter XIII — Urban Green Space

NR 51.920 Purpose. The purpose of this subchapter is to establish standards and procedures for administration of grants to acquire property for urban green space and nature-based outdoor recreation under s. 23.09 (19), Stats.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.921 Applicability. This subchapter is applicable to governmental units, lake sanitary districts under s. 30.50 (4q), Stats., public inland lake protection and rehabilitation districts and nonprofit conservation organizations applying for grants for the acquisition of urban green space under s. 23.09 (19), Stats.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.922 Definitions. In this subchapter:

(1) "Community gardening" means a noncommercial activity in an urban community involving raising vegetables, fruits, flowers and herbs for personal consumption or use.

(2) "Urban green space" means open natural space within or in proximity to urban development that has scenic, ecological or natural value. It may also include land set aside for community gardening.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.923 Allocation of funds. The department shall distribute urban green space grants on a statewide basis except that 10% of the annual allocation shall be reserved for community gardening projects. If the department does not receive sufficient community gardening projects by the annual application deadline as specified in s. NR 51.906, remaining annual funds shall return to the general urban green space allocation.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.924 General provisions. (1) A sponsor may only use grant funds provided under this subchapter for nature-based outdoor recreation as specified under s. 23.09 (19) (cg), Stats.

(2) The property to be acquired shall be identified in a plan approved by a governmental unit before a grant is approved.

(3) A sponsor that acquires property for community gardening may charge user fees that are sufficient to cover the cost of maintaining the area. Those fees may be waived based on the user's inability to pay.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.925 Eligible projects. Land acquisition projects which are eligible for grant funds include:

(1) Land to provide an open natural space within or in proximity to urban development.

(2) Land to protect from urban development an area or naturally formed feature that is within or in proximity to an urban area and that has scenic, ecological or other natural value.

(3) Land for community gardening to be used by inhabitants of an urbanized area.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.926 Priorities. (1) The department shall select projects for grant assistance through a ranking process when considering the following factors that are not listed in priority order:

(a) Planning factors include:

1. Projects that specifically implement a priority of the SCORP.

2. Projects that implement the approved master plans of 2 or more units of government or regional planning agencies.

3. Projects that preserve land that is listed on the natural heritage inventory database.

4. Projects that implement elements of water quality plans or initiatives.

(b) Project factors include:

1. Land that serves the greatest population centers.

2. Land that serves areas of rapidly increasing populations.

3. Land that is accessible, where accessibility is appropriate.

4. Land that has unique natural features, threatened or endangered species, or significant ecological value.

5. Land that provides open natural linear corridors connecting open natural areas.

6. Land with water frontage.

7. Land that contains or restores wetlands.

8. Land that protects sensitive wildlife habitat.

9. Land that protects an area threatened by development.

10. Land that preserves a natural community or could be restored to a natural community.

11. Land that can be shown to be of regional or statewide significance.

12. Land related to brownfields redevelopment.

(c) Administrative factors include:

1. Projects that are ready to be implemented.

2. Projects that continue eligible acquisition projects previously started.

(2) In the grant rating system, the priority for brownfields redevelopment shall receive additional preference pursuant to s. 23.09 (19) (cm), Stats.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.927 Community garden project priorities. In selecting community garden projects, the department shall consider:

(1) Land located in areas with a high percentage of land developed.

(2) Land adjacent to high density housing with residents with demonstrated special needs.

(3) Land in areas where there is insufficient open space to meet existing demand.

(4) Land that provides for expanding or replacing temporary garden plots.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

Subchapter XIV — Urban Rivers Grant Program

NR 51.930 Purpose. The purpose of this subchapter is to establish standards and procedures for administration of grants under s. 30.277 (2), Stats., for the acquisition of property adjacent to urban rivers and development of shoreline enhancements to preserve, enhance or restore an urban river's natural resource values and provide opportunities for nature-based outdoor recreation.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.931 Applicability. This subchapter is applicable to governmental units applying for grants for the acquisition of property and development of shoreline enhancements under s. 30.277, Stats., and to nonprofit conservation organizations for the acquisition of property under s. 23.096, Stats.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.932 Definitions. In this subchapter:

(1) "In-kind contributions" means the non-cash contributions of materials, equipment, services or labor provided by a third party that are reasonable and necessary for carrying out the project.

(2) "Shoreline enhancement" means a development or habitat restoration project that serves public recreation or resource conservation purposes and is dependent on being on a shoreline.

(3) "Urban area" means any area that is within or is characteristic of a city or village.

(4) "Urban river" means a river within or in proximity to an urban area.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.933 Allocation of funds and grant awards. (1) The department shall distribute urban rivers grants on a statewide basis according to the provisions and priorities in this subchapter.

(2) No governmental unit may receive in any fiscal year more than 20% of the funds that are available for grants under this subchapter.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.934 General provisions. (1) Sponsors may only use grant funds provided under this subchapter to provide or enhance nature-based outdoor recreation as specified under s. 30.277 (2), Stats.

(2) To be eligible for a grant under this subchapter, a sponsor shall fund at least 50% of the cost of the project by private, local or federal funding, by in-kind contributions or by state funding. For purposes of this subchapter, state funding may not include grants under this subchapter, moneys appropriated to the department under s. 20.370, Stats., or money appropriated under s. 20.866 (2) (ta), (tp) to (tw), (ty) or (tz), Stats.

(3) In-kind contributions, as defined in this subchapter, shall meet all eligibility requirements of subch. XI.

(4) Projects shall, either alone or in conjunction with other supporting plans, restore, enhance or preserve the environmental and natural resource values of an urban river or riverfront.

(5) Projects shall enhance or preserve diverse outdoor natural resource related recreation opportunities for all segments of the population.

(6) Projects shall be supported by a town, village, city, or county comprehensive outdoor recreation plan or comprehensive plan pursuant to s. 66.1001, Stats., which is being developed or has been completed by the governmental unit.

(7) The application shall include a copy of any relevant local comprehensive outdoor recreation plan, local green space plan, integrated resource management plan, riverfront restoration plan or appropriate sections of a comprehensive plan pursuant to s. 66.1001, Stats.

(8) Riparian flowage lands may be eligible for an urban rivers grant, if the project overall is more riverine in character than lake and if it is part of a comprehensive riverway plan, or if the acquisition is for the purpose of the removing the flowage and restoring the area to a natural river condition.

(9) Non-urban riverfront lands that are lying adjacent to an urban area or that are likely to be urbanized may be eligible for an urban rivers grant if the department determines acquisition of the land would contribute significantly to the overall success of an urban river project or comprehensive riverway plan of which it is a part.

(10) The following shoreline enhancements, not listed in priority order, are eligible for stewardship grants:

(a) Projects that support the outdoor recreation activities defined in s. NR 51.002 (19).

(b) Riparian buffer rehabilitation including establishment of native vegetation, which may include slope and site preparation, and control of exotic plant species.

(c) Shoreline stabilization, which may employ bioengineering practices, and other environmentally beneficial stabilization techniques.

(d) Engineering and design costs for approved shoreline enhancement projects.

(e) Removal of seawalls, retaining walls, overhead wires, roads, buildings and levees.

(f) Open shelters, multi-purpose shelter buildings and primitive campsites.

(g) Fences for protection of park users.

(h) Lighting for public safety.

(i) Park signs.

(j) Shoreline access.

(11) Shoreline enhancement projects associated with river corridor restoration following dam removal shall receive a priority for funding.

(12) Construction or repair of seawalls and lagoons, and environmental remediation or clean-up of site contamination are inel-

igible projects. Dredging projects are also ineligible unless the dredging is incidental to the overall project.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.935 Priorities. The department shall prioritize grant requests based on the extent to which the project, or the project in conjunction with supporting plans, satisfies each of the following criteria which are not listed in order of preference. As set forth in s. 30.277 (6), Stats., the criterion relating to brownfields under sub. (15), shall receive the greatest preference.

Note: For example, a grant request that satisfies 5 criteria to a substantially greater degree would receive higher priority for funding than a request that satisfies 6 criteria to a much lesser degree.

(1) The project satisfies a relevant statewide or department region priority need identified in SCORP.

(2) The project preserves land listed on the natural heritage inventory or restores or preserves an area with significant historical or cultural value.

(3) The project supports other federal, state or local natural resource management or pollution control lands or projects.

(4) The project implements elements of approved water quality plans.

(5) The project continues land acquisitions in an urban rivers project that was previously approved by the department.

(6) The project is within a designated scenic urban waterway under s. 30.275, Stats.

(7) The project restores, enhances or preserves natural resource values and environmental quality within the river corridor.

(8) The project provides and enhances diverse outdoor, natural resource related recreation opportunities for all segments of the population. Appropriate outdoor recreation opportunities include, but are not limited to fishing, wildlife observation, enjoyment of scenic beauty, boating, canoeing, hiking and bicycling.

(9) The project improves public access to the riverfront for all segments of the population.

(10) The project has substantial community support, including financial support.

(11) The project involves a joint effort by 2 or more governmental units.

(12) The project has significant potential for increasing tourism.

(13) The project has significant potential benefits to the overall economy of the governmental unit.

(14) The project has significant aesthetic value.

(15) The project is related to brownfields redevelopment, as defined in s. 23.09 (19) (a) 1., Stats.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

Subchapter XV — Acquisition of Development Rights

NR 51.940 Purpose. The purpose of this subchapter is to establish procedures and standards for the administration of grants for the acquisition of development rights for nature-based outdoor recreation under s. 23.09 (20m), Stats.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.941 Applicability. This subchapter is applicable to governmental units and nonprofit conservation organizations that apply to the department for grants to acquire development rights in land for nature-based outdoor recreation pursuant to s. 23.09 (20m), Stats.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.942 Definitions. In this subchapter:

(1) "Acquisition of development rights program" means a voluntary land protection program enacted by a governmental unit that compensates landowners for limiting future development on their land.

(2) "Agriculture" means the uses described in s. 30.40 (1), Stats.

(3) "Development" or "to develop" means construction or placement of buildings, structures, facilities, utilities or other improvements on property.

(4) "Development rights" means the rights of a landowner to develop their property to the greatest extent allowed under state and local laws.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.943 Grant awards. (1) The department may award grants to governmental units and nonprofit conservation organizations for the acquisition of easements that restrict future development and protect the conservation values of property in perpetuity.

(2) Application procedures are as stated in s. NR 51.906, except that in fiscal year 2001, applications received after May 1 shall be considered on a case-by-case basis to the extent that funds are available.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.944 General provisions. (1) If a sponsor submits a grant application for a property as part of an acquisition of development rights program, and that property is subsequently withdrawn from consideration, the sponsor may substitute another property if it achieves the same or a higher ranking as the property that was originally submitted.

(2) For easements acquired with a stewardship grant, the sponsor may not convert or approve conversion of land encumbered by the easement to uses inconsistent with the easement. Residential, industrial or commercial development is prohibited on those areas of easement property that are encumbered by a stewardship grant. Additional restrictions or conditions may be imposed by the easement or grant contract.

(3) Agriculture and forestry may be permitted on property encumbered by an easement as long as those activities are compatible with the purposes of the stewardship program and the acquisition project.

(4) Any agriculture within the area encumbered by an easement shall be carried out in accordance with the conditions, standards and specifications of a soil and water conservation plan approved by the natural resources conservation service office located in each county.

(5) Harvesting of timber within the area encumbered by an easement shall be carried out in accordance with the conditions of a forest management plan approved by the department.

(6) Vegetative buffers shall be established and maintained along lakes, ponds, wetlands, marshes, rivers, streams and ditches. Whenever possible, the area of the vegetative buffer shall extend at least 75 feet from each edge of the surface water or wetland. There may be no activity that adversely affects the natural flow of surface or underground waters within the area of the easement.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.945 Priorities. The following types of property, not listed in priority order, shall receive priority for funding if the property provides for or enhances nature-based outdoor recreation:

(1) Property with frontage on rivers, streams, lakes or estuaries.

(2) Property that creates a buffer between land that has been permanently protected for natural resource and conservation purposes and potential or existing residential, commercial or industrial development.

(3) Property that is within the boundaries of an acquisition project established by the department, a governmental unit or a nonprofit conservation organization where the uses of the property will complement the goals of the project and the stewardship program.

(4) Property that is within an environmental corridor that connects 2 or more established resource protection areas.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

NR 51.946 Factors that shall be considered in project selection. The department shall select projects for financial assistance by evaluating each project according to the following factors, not listed in order of priority:

(1) Recreational opportunities provided or enhanced.

(2) Proximity to other permanently protected land.

(3) Natural, scenic, geological and archaeological values of the property.

(4) The degree of development pressure.

(5) Whether the project has been identified in a comprehensive plan pursuant to s. 66.1001, Stats., another plan that has as one of its purposes the protection of natural resources, or the natural heritage inventory database.

(6) The amount of funding available from other sources.

History: Emerg. cr. eff. 9-1-00; CR 00-135: cr. Register July 2001, No. 547 eff. 8-1-01.

Subchapter XVI — Heritage State Park and Forest Trust Grants

NR 51.990 Purpose. The purpose of this subchapter is to establish criteria and procedures for the implementation of heritage state park and forest trust grants to friends groups for property maintenance and operations under s. 27.016, Stats.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-96; emerg. renum. from NR 51.90, eff. 9-1-00; CR 00-135: renum. from NR 51.90, Register July 2001, No. 547 eff. 8-1-01.

NR 51.991 Applicability. This subchapter is applicable to friends groups organized for, and under formal written agreements with the department for properties or programs under s. 23.098 (1), Stats., and s. NR 1.71.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-96; am. Register, December, 1997, No. 504, eff. 1-1-98; emerg. renum. from NR 51.91, eff. 9-1-00; CR 00-135: renum. from NR 51.91, Register July 2001, No. 547 eff. 8-1-01.

NR 51.992 Eligible projects. The department shall award grants for the operation and maintenance of state parks, southern state forests or state recreation areas. All projects shall be consistent with department approved plans for the property.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-96; emerg. renum. from NR 51.92 and am., eff. 9-1-00; CR 00-135: renum. from NR 51.92 and am., Register July 2001, No. 547 eff. 8-1-01.

NR 51.993 Priorities. Priority shall be given to those projects, not listed in order of priority, that do any of the following:

(1) Provide, maintain or operate department approved interpretive programs.

(2) Provide or maintain accessibility for people with disabilities.

(3) Assist in the restoration or rehabilitation of property using native flora or fauna or both.

(4) Provide special events, programs, public information or marketing strategies consistent with the goals of the department for that property.

(5) Maintain or operate basic facilities already provided at the property.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-96; emerg. renum. from NR 51.93, eff. 9-1-00; CR 00-135: renum. from NR 51.93, Register July 2001, No. 547 eff. 8-1-01.

NR 51.994 Application and grant award procedures. (1) Applications shall include a description of the proposed project, a cost estimate, timetable and other information required by the department. This information shall be provided on forms provided by the department.

(2) The department shall establish an annual application deadline. The department shall consider applications for grants received after that deadline on a case-by-case basis to the extent that funds are available.

(3) To qualify for a grant under this program, a friends group shall have established an endowment fund for the benefit of a state park, a southern forest or a state recreation area and shall have entered into a written agreement with the department for operation or maintenance of state property.

(4) The department shall award grants for 50% of the amount of matching funds provided by the friends group and are restricted by all other conditions of s. 27.016, Stats. The department may not expend more than \$30,000 for each friends group or state

property in a given year.

(5) The department shall evaluate all completed applications to determine which applications shall receive grants according to the priorities in this subchapter. The department may advance grant funds to the successful sponsor once the sponsor can show it has 100% of its share of the project monies.

(6) Each friends group that receives a grant award shall maintain accurate and complete financial records of project expenses for 4 years in accordance with department reporting requirements. Accounting shall be in accordance with generally accepted accounting principles and practices. Each sponsor shall submit a final accounting of project expenditures to the property manager within 90 days of the completion of the project or by the date indicated in the grant agreement, whichever is sooner. If the project is to provide for general operations or maintenance on the property, then with the approval of the department, the final accounting of project expenditures may consist of a year-end financial statement. If actual expenses for the project are less than estimated, the friends group shall return any unused grant funds it has received with the final report.

Note: Copies of the department's financial reporting requirements and forms are available from the property manager.

History: Cr. Register, September, 1996, No. 489, eff. 10-1-96; emerg. renum. from NR 51.94 and am. (2) and (4) to (6), eff. 9-1-00; CR 00-135: renum. from NR 51.94 and am. (2) and (4) to (6), Register July 2001, No. 547 eff. 8-1-01.