

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor
George E. Meyer, Secretary

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STATE OF WISCONSIN)
) ss
DEPARTMENT OF NATURAL RESOURCES)

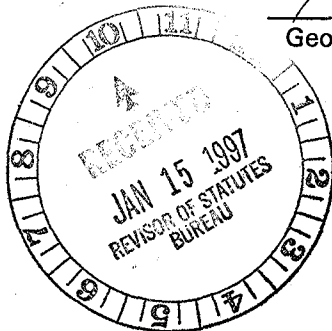
TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, George E. Meyer, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. CA-23-96 was duly approved and adopted by this Department on June 26, 1996 and December 4, 1996.. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Natural Resources Building in the City of Madison, this 13th day of January, 1997.

George E. Meyer
George E. Meyer, Secretary

(SEAL)



ORDER OF THE STATE OF WISCONSIN
NATURAL RESOURCES BOARD
AMENDING, REPEALING AND RECREATING AND CREATING RULES

The Wisconsin Natural Resources Board proposes an order to amend NR 7.04(2)(b) and (5), 7.05(4) to (6) and 7.06(1); to repeal and recreate NR 7.04(9) and 7.05(7); and to create NR 7.04(16) and 7.05(8) and (9) relating to the recreational boating facilities program.

CA-23-96

Analysis Prepared by the Department of Natural Resources

Statutory authority: s. 30.92 and 227.11(2)(a), Stats.

Statutes interpreted: s. 30.92, Stats.

Chapter NR 7, Wis. Adm. Code, provides rules for the administration of the recreational boating facilities program. Proposed changes to NR 7 will accomplish the following:

1. Clarify under what conditions the Department will reimburse pre-approval project costs. (Section 1)
2. Correct the citation to the Department of Natural Resources access code under NR 1. (Section 2)
3. Add a provision that will allow the value of donated equipment, materials, services and labor as all or a part of the sponsor's required match. (Section 3)
4. Add a provision that will allow project sponsors the opportunity to receive advance payments of 50% of the state cost share at the time of grant approval. (Section 4)
5. Broaden the category of support facilities eligible for recreational boating cost sharing assistance. (Section 5)
6. Remove a reference to management and operation of locks and specifies improvement and repair as an eligible cost consistent with a recent statutory change. (Section 6)
7. Remove the prohibition on receiving cost sharing assistance for navigation aids greater than once every 5 years. (Section 7)
8. Add a provision that specifies that a waterbody must have a minimum acreage of 30 acres of harvestable aquatic vegetation in order to be eligible for cost sharing assistance for the purchase of weed harvesting equipment. (Section 8)
9. Add specifications for the new rehabilitation category recently authorized by a recent statutory change. (Section 9)
10. Add a clarification on the eligibility of dredging backslopes in navigation channel dredging projects. (Section 10)

11. Clarify that the feasibility study does not specify the position of a project on a priority ranking list. (Section 11)

SECTION 1. NR 7.04(2)(b) is amended to read:

NR 7.04(2)(b) Expenditures for ~~necessary~~ engineering or planning costs, necessary to develop a construction project proposal for commission review, made prior to entering a project agreement may be reimbursed by the department if made a part of the project agreement.

SECTION 2. NR 7.04(5) is amended to read:

NR 7.04(5) Grants of financial assistance for recreational boating facilities shall be consistent with the provisions of ss. NR 1.90, ~~1.92 and 1.93~~ and 1.91.

SECTION 3. NR 7.04(9) is repealed and is recreated to read:

NR 7.04(9) The substantiated value of donated materials, equipment, services or labor may be used as all or part of the sponsor's share of the project cost subject to all of the following:

(a) All sources of sponsor match shall be indicated when the application for a grant is submitted.

(b) The maximum value of donated labor shall be \$5.00 per hour.

(c) The value of donated equipment shall conform to the Wisconsin department of transportation county 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 Avenue, Madison, WI 53705.

(d) The value of donated materials and services shall conform to market rates and be established by invoice.

SECTION 4. NR 7.04(16) is created to read:

NR 7.04(16) Fifty percent of the financial assistance grant amount may be paid to a sponsor at the time of project approval, if requested.

Note: This applies only to grant contracts executed after the effective date of these rules ... [revisor insert date].

SECTION 5. NR 7.05(4) is amended to read:

NR 7.05(4) Support facilities ~~limited to~~ including parking lots, signs, sanitary facilities, fencing or security lighting for the convenience of boaters.

SECTION 6. NR 7.05(5) is amended to read:

NR 7.05(5) ~~Management and operation~~ Improvement and repair of locks and facilities which provide access between waterways for operators of recreational watercraft.

SECTION 7. NR 7.05(6) is amended to read:

NR 7.05(6) Acquisition of aids to navigation and regulatory markers including ground tackle. Only the costs of the aids to navigation and regulatory markers including shipping and ground tackle are eligible for funds under this chapter. The cost of repairing, placing, moving or removing aids to navigation or regulatory markers is not eligible for funds under this chapter. ~~A sponsor may not receive funds to replace individual aids to navigation or regulatory markers more than once every 5 years unless the sponsor can justify that replacement is necessary because of damage caused by collision with watercraft or natural occurrences.~~

SECTION 8. NR 7.05(7) is repealed and recreated to read:

NR 7.05(7) Acquisition of capital equipment that is necessary to cut and remove aquatic plants that are aquatic nuisances or that are detrimental to fish habitat with the following limitations:

(a) Eligible capital equipment shall be limited to cutting devices, barges with propelling motors, conveyors and trailing devices.

(b) Acquisition of capital equipment is eligible only when the acquisition is pursuant to a plan to cut and remove aquatic plants that is approved by the department. If the capital equipment is to be used on more than one lake, each lake shall be covered by a department approved plan to cut and remove aquatic plants and each plan shall outline the organizational relationships, rights and responsibilities for weed harvesting operations between the cooperating sponsors.

(c) For a single waterbody for which the equipment is being purchased the waterbody shall have a minimum acreage of harvestable aquatic plants of at least 30 acres. For several small waterbodies for which the equipment is being purchased, the cumulative acreage shall be at least 50 but no more than 100 acres of harvestable aquatic plants for all lakes combined and the waterbodies shall be in close proximity to each other as approved by the commission.

(d) All sponsors for small lakes cooperating in the purchase of weed harvesting equipment shall demonstrate financial participation in the purchase of the equipment.

(e) If a sponsor purchases new equipment, the department may not provide funds for the purchase of individual pieces of weed harvesting equipment more than once every 10 years. If a sponsor purchases used equipment, the 10-year limitation may be shortened to match the remaining years of utility of the equipment. If a sponsor sells any or all of the equipment funded under this chapter prior to the end of the 10 year or adjusted period, the sponsor shall repay the department 50% of the sale price.

SECTION 9. NR 7.05(8) is created to read:

NR 7.05(8) Rehabilitation of capital improvements that are related to recreational boating facilities with the following limitations:

(a) The repair or renovation is the result of damage from natural events or faulty design but is not a result of inadequate maintenance or lack of care.

(b) The total estimated cost of the rehabilitation is greater than \$10,000

(c) The total amount of costs eligible for cost sharing assistance that a sponsor receives for rehabilitation shall be reduced or refunded by any amount of damages recovered by the sponsor through either litigation or insurance settlement.

SECTION 10. NR 7.05(9) is created to read:

NR 7.05(9) (a) In addition to projects specified under subs. (1) to (8), dredging of a channel of an inland waterway to the degree necessary to accommodate recreational watercraft is eligible for funding with the following limitations:

1. In order to be eligible for funds, a channel to be dredged in a lake shall be defined by aids to navigation as defined in s. 30.74(2)(b), Stats.

2. Cost sharing for dredging of a channel may be provided only for dredging the width of a channel to a distance of 25 feet on either side of the centerline of a river or 25 feet on either side of a center channel marker in a lake. The dredging of backslopes necessary to maintain a channel width of 50 feet for a minimum of 10 years is eligible. The depth of the channel dredging shall be limited to the depth necessary to accommodate recreational watercraft commonly utilizing the waterbody.

Note: The limit on the design slope ratio of the backslope dredging shall be commensurate with the nature of the lakebed materials.

3. Eligible costs of dredging a channel in a waterway include: engineering, including soil borings; dredging and mobilization; construction of a temporary holding area; and transportation of spoils. The cost of constructing revetments to permanently contain spoils is eligible if the sponsor can demonstrate that the cost of creating a land mass is less than the cost of transportation of spoils to a disposal site or if a substantial benefit to the recreational boating public will accrue.

4. Ineligible costs include: any costs relating to planning, engineering, dredging, handling, processing, transporting or depositing of contaminated dredge spoils; the purchase of land rights for a spoils deposition area or the costs of landfill storage of spoils; costs of land treatment to cover up spoils deposit; and the cost of testing or monitoring as a condition of a state or federal permit.

5. A sponsor may not receive funds for dredging the same channel of a waterway more than once every 10 years.

(b) For the purpose of s. 30.92(4)(b)2., Stats., the dredging of a channel of a waterway to the degree necessary to accommodate recreational watercraft pursuant to s. 30.92(4)(b)8.a., Stats., shall be considered a construction project.

SECTION 11. NR 7.06(1) is amended to read:

NR 7.06(1) Feasibility studies shall be the basis for determining the feasibility of a safe recreational boating facility project and the rank of the project on the project priority list.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on June 26, 1996 and December 4, 1996.

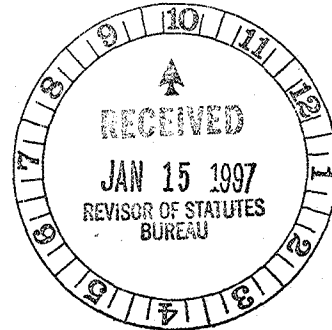
The rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin January 13, 1997

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By George E. Meyer
George E. Meyer, Secretary

(SEAL)






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January 8, 1997

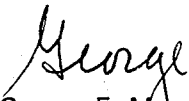
Mr. Gary L. Poulson
Assistant Revisor of Statutes
131 West Wilson Street - Suite 800
Madison, WI


Dear Mr. Poulson:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. CA-23-96. These rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environmental Resources and Urban Affairs pursuant to s. 227.19, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees are also enclosed.

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

Sincerely,


George E. Meyer
Secretary

Enc.

