



NR 160

State of Wisconsin

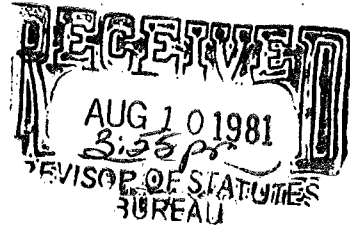
DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

IN REPLY REFER TO: _____

STATE OF WISCONSIN)
DEPARTMENT OF NATURAL RESOURCES) SS



TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

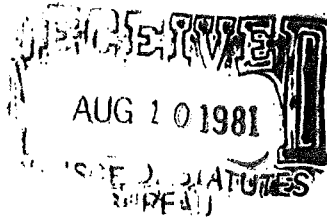
I, Carroll D. Besadny, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. FA-1-81 was duly approved and adopted by this Department on April 23, 1981 and July 22, 1981. 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 General Executive Facility #2 in the City of Madison, this 7th day of August, 1981.

Carroll D. Besadny
Carroll D. Besadny, Secretary

(SEAL) 10-1-81

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



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IN THE MATTER of repealing section .
NR 160.03(5)(b); renumbering sections .
NR 160.03(5)(a) and NR 160.08; .
amending Chapter NR 160 title and .
sections NR 160.01, NR 160.03(1)(c) .
note, (6)(b) & (d), NR 160.05, .
NR 160.06 and NR 160.07; and creating .
sections NR 160.08 and NR 160.09 note .
of the Wisconsin Administrative Code .
pertaining to definition of the .
federal and state construction grant .
priority ranking system for water .
pollution abatement projects. .
.....

FA-1-81

Analysis Prepared by Department of Natural Resources

Chapter NR 160, Wis. Adm. Code defines the priority ranking system for water pollution abatement projects. At the time the code was adopted, the priority system was intended for use in ranking only federally funded projects. Since that time, the Wisconsin Fund has been created and the priority system is also used to administer Wisconsin Fund grants. The first proposed changes in language, the title of NR 160 and content of NR 160.01, recognize that the priority system is used for both federally and state funded projects.

The remainder of the language revisions can be divided into "administrative" and "priority value" categories. The "administrative" revisions propose better ways of administering the list. The "priority value" revisions propose better ways of scoring projects. The administrative revisions are discussed first.

The revised language in NR 160.06(3) clarifies annual review and approval procedures. Each year the list shall be subject to public hearing and DNR Board approval. These procedures have been followed the last few years; the revised language makes them official.

Revisions to NR 160.05 address reevaluation/recalculation of priority values once a project has been placed on the list. Projects are originally placed on the list prior to Step 1 work based on information at that time. During facilities planning, the problem and proposed project are examined in detail. This work may lead to a drastic change in the project. There needs to be a reevaluation of projects at the conclusion of Step 1 to make sure the priority value correctly reflects the project. The proposed NR 160.05(5) includes this language. There may be other information which changes in relation to a project, e.g., population or effluent limits, which would affect the priority value. At the present time there is no built-in procedure to reevaluate scores to reflect these changes. The proposed NR 160.05(4) would

allow the department to annually reevaluate, and if necessary, recalculate scores for projects affected by these types of changes. The annual reevaluation would assure accuracy and timeliness of information.

Section NR 160.08 is created to define the procedure used by the department in setting annual funding policies. The funding policies would be subject to public hearing and natural resources board approval.

Federal rules (40 CFR 35.915) defining project priority list requirements could be changed at any time. A note following section NR 160.09 is created to define a procedure for amending NR 160 should federal regulations change.

One of the priority value revisions is minor in scope. The deletion of section NR 160.03(5)(b) removes nonconnected industries from the population score. The intent of the priority list is to rank projects according to the existing problem. Inclusion of nonconnected industries does not conform with this objective. Once the final 1980 census figures become available, the population score of each project, including the industrial portion of it, will be recalculated to assure accuracy and timeliness of information.

The revisions to section NR 160.03(6) are intended to change the scores of projects to serve unsewered areas. At the present time such projects receive two project scores, one for treatment plant project (16 points) and another for collection system project (10 points). The 16 point score puts the project on a par with other projects to upgrade existing wastewater treatment plants. It is the position of the department that correction of malfunctioning septic systems is not as central to the achievement of 1983 water quality goals as is upgrading treatment plants. Unsewered community projects are not needed to meet the enforceable requirements of the Clean Water Act. In a time when wastewater treatment needs are larger than available grant funds, projects to meet the enforceable requirements of the act must be given higher priority. Therefore, projects to correct malfunctioning septic systems will only receive one project score for 10 points. The new wording for the unsewered community projects assures that there is no implication that a wastewater treatment plant and collection system are the solutions.

The deletion of section NR 160.06(4) removes the reserve list which was created in 1975. The reserve list had been created to protect the priority of projects which had high priority before the changes in 1975 so that they would be the first to receive funding after 1975. It is felt that ample time has been given for such projects to proceed to Step 3. If they have not reached that stage by now, other projects that are ready to proceed should be funded.

Revisions to section NR 160.07 better define the standards for "cluster" projects. If several projects are associated with a common project, the department may consider them as a cluster project. One type of cluster would include abandonment of several individual wastewater treatment plants to construct a regional treatment plant and interceptors to serve all municipalities. Another type of cluster would include several related projects within one municipality. A project would be clustered with the score

of the treatment plant project only if it significantly impacts the treatment plant design and is required by a WPDES permit to be completed before or at the same time as the treatment plant project. Section NR 160.07(1m) is deleted and section NR 160.08(2)(b) is created to exclude all sanitary sewer collection system projects from being a part of a cluster project. However, the other projects listed under section NR 160.03(6) could be part of a cluster if they meet the criteria in section NR 160.07(2)(a). Factor scores would be clustered either upward or downward to the score of the project to correct a problem. Scoring of cluster projects will need to be consistent with results of approved facilities plans. One of the major reasons for reevaluation of priority values after Step 1 (see NR 160.05(5)) is to determine whether or not a particular project should be clustered and, if so, what project it would be clustered with.

Although the sections of chapter NR 160 that discuss the calculation of the assimilative capacity factor (ACF) score and nutrient control score (NR 160.03(3) and (4)) are not being changed, administrative changes are being made. The ACF score is being made consistent with effluent limits set by wasteload allocations and categorical limits. This allows the department to carry out the intent of section NR 160.03(3)(b) where the formula is to use the best information available to measure the assimilative capacity of the receiving stream. For the nutrient control factor (NR 160.03(4)), points are being given only if a WPDES permit requires phosphorus control and the existing treatment plant does not meet phosphorus limitations given in the WPDES permit.

The proposed changes would go into effect in federal FY 82, i.e., October 1, 1981. The largest number of changes in priority value would result from administrative changes in ACF and nutrient control scores and the elimination of the 16 point project score for unsewered community projects.

In terms of ACF and nutrient control, some municipalities would gain points, some would lose, and others would remain the same or nearly the same. However, the overall effect would be to decrease most ACF and nutrient control scores. As indicated below, this may move a few communities into or out of the projected EPA Step 3 range in 1982.

The elimination of the 16 point project score for unsewered communities will put those projects in the bottom portion of the list. Depending upon grant funding, costs, and the pace at which projects proceed, this may remove several of these projects out of the funding range for Wisconsin Fund Step 3 grants. These projects would be replaced by treatment plant projects and some sewer projects. However, it is difficult to predict the exact nature of this effect because there are so many unpredictable variables.

The FY 1981 EPA Step 3 funding range includes projects with sequence numbers 1 through 20 on the FY 1981 project priority list. Twelve of the twenty-two projects on the FY 81 priority list are projected to be funded for Step 3 work before October 1, 1981. These would not be affected by the changes in scoring because they would be off the list. Six of the twenty in the 1981 EPA Step 3 fundable range would remain so after the changes; they are Abbotsford, Biron, Franklin-Muskego, Plymouth, Milwaukee-Inline Storage, and Milwaukee--Solids Management. Four projects in the FY 81 Step 3 range would

drop out; they are Marshfield, Madison, Lake Geneva, and Beaver Dam. All four projects drop out of the range because their ACF scores are decreased. Two projects not in the FY 81 Step 3 EPA range are added to the projected FY 82 range; they are Town of Grand Chute (formerly Butte des Morts, U.D.) and Milwaukee Met--Jones Island. Town of Grand Chute receives an increase in its ACF score while Milwaukee Met--Jones Island appears because other projects above it are either funded in 1981 or lose ACF points and fall below its score. These changes from EPA range to Wisconsin Fund range or vice versa can be significant in that the EPA Step 3 grant pays 75 percent of eligible project costs while the Wisconsin Fund Step 3 grant pays only 60 percent.

These proposed language changes involve specific additions and/or deletions as shown on the next pages.

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by sections 144.24 and 227.014, Wisconsin Statutes, the State of Wisconsin Natural Resources Board hereby repeals, renumbers, amends, and creates rules interpreting section 144.24, Wisconsin Statutes, as follows:

SECTION 1 - The title of chapter NR 160 is amended to read:

FEDERAL AND STATE CONSTRUCTION GRANT PRIORITY RANKING SYSTEM FOR WATER POLLUTION ABATEMENT PROJECTS

SECTION 2 - Section NR 160.01 is amended to read:

NR 160.01 Purpose. The purpose of this chapter is to establish a priority system for distributing federal grant funds for the construction of municipal wastewater treatment systems as provided in the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500)(33 U.S.C. 1251 et. seq.), and state grant funds for the construction of municipal wastewater treatment systems as provided in s. 144.24, Stats.

SECTION 3 - Section NR 160.03(1)(c) Note is amended to read:

Note: The river basin score is determined by the department from several different factors which generally characterize the water quality and population of the basin. A report which discusses the calculation of the various river basin scores is available upon request from the Department of Natural Resources, ~~Grant-in-Aid-Section, Box-450,~~ Bureau of Water Grants, Box 7921, Madison, Wisconsin, 53707.

SECTION 4 - Section NR 160.03(5)(b) is repealed.

SECTION 5 - Section NR 160.03(5)(a) is renumbered s. NR 160.03(5).

SECTION 6 - Section NR 160.03(6)(b) is amended to read:

(b) Projects intended to replace, improve or expand existing secondary-designed facilities, or to provide advanced waste treatment for existing secondary-designed facilities, or to eliminate existing municipal sewage treatment plants by construction of intercepting sewers where the initial dry-weather flow is at least 25% of the design capacity of the sewer ~~or-to-construct-new-sewage-treatment-plants-or-interceptor-sewers-primarily-designed-to-serve-developed-areas-which-were-in-existence-on-October-18,-1972~~ shall be assigned 16 points;

SECTION 7 - Section NR 160.03(6)(d) is amended to read:

(d) Projects to eliminate malfunctioning private sanitary waste disposal systems ~~by-the-construction-of-new-sanitary-sewers,~~ shall be assigned 10 points.

SECTION 8 - Section NR 160.05 is amended to read:

NR 160.05 Procedure for determination and updating of project priority value. (1) ~~Project-sponsors~~ Any project sponsor intending to apply for state or federal grant assistance or both for the first time shall submit to the department a written request for priority determination on a priority evaluation review form, available from the Grant-in-Aid Section of the department sheet (PERS). A PERS is available from the bureau of water grants of the department.

(2) No project will be assigned a priority value, nor will it be placed on the project priority list until a ~~priority-evaluation-review-form~~ PERS for the project has been submitted by the project sponsor and evaluated by the department.

(3) Upon completion of the review and determination of priority value, the department will notify the project sponsor in writing of the determination.

(4) Annually, the department shall review, and if necessary under the requirements of this chapter, recalculate priority values to assure accuracy and timeliness of information. The department shall notify the project sponsor in writing of the change.

(5) After completion of step 1 (facilities planning) the department shall reevaluate the priority value of the project, making revisions if necessary. The department shall notify the project sponsor in writing of the change.

~~(4)~~(6) If the project sponsor objects to the department's determination of the priority value, ~~he~~ the project sponsor shall notify the department in writing within 30 days. This notice shall state specifically the objection,

and the notice shall present information supporting the objection and the priority value which the sponsor feels believes should be assigned to the project based on this information.

~~(5)~~(7) Upon receipt of such notice the department shall reevaluate its determination of the project priority value and shall notify the sponsor. If the department denies the requested priority value, it shall state the reasons in writing.

~~(6) -- If information relevant to the assigned priority value of a project is obtained by the department, the department may reevaluate the assigned priority value of such a project based on the application of the information in accordance with this chapter. -- If the department changes the priority value of a project, it shall so notify the project sponsor in accordance with subsection (3). -- For purposes of subsections (4) and (5) of this section, notification of a change in priority value made pursuant to this subsection shall be deemed to be an initial determination of priority value.~~

SECTION 9 - Section NR 160.06 is amended to read:

NR 160.06 Project ranking system. (1) The department shall maintain a project priority list which shall rank the projects for which priority values have been determined. The projects will be ranked in the order of descending priority value with the project with the highest priority value ~~to be~~ ranked first.

(2) In case 2 or more projects have the same priority value, the project having the higher population to be served immediately will be considered to have the higher priority.

~~(3) -- The project priority list shall be revised annually by the department and shall be used by the department as a basis for processing applications for federal grants and allocating federal funds provided that the project sponsors have satisfied all federal requirements for grant application.~~

(3) The project priority list shall be prepared annually by the department. Subject to public hearing and natural resources board approval, it shall be used for allocating federal and state funds to eligible project applicants.

~~(4) -- Regardless of their priority value determined under this chapter, projects which are ranked 1 through 86 inclusive on the project priority list of December 18, 1973 shall be given the same priority ranking under this chapter provided that project sponsors have proceeded expeditiously to meet federal requirements for a construction grant. -- If the department determines as of the effective date of these rules, that a sponsor has not proceeded expeditiously to meet federal requirements for a construction grant, it shall so notify the sponsor. -- If he so desires, the sponsor may within 30 days inform the department in writing of the reasons why he has not so acted and may submit an anticipated schedule of progress. -- If such a schedule cannot be mutually agreed to by the sponsor and the department, or the agreed upon schedule has not been adhered to, the project shall then be ranked based on its priority value determined under this chapter.~~

(4) In cases where amendment to this chapter will remove a project from next year's federal fundable range, such a project shall, for one year, be ranked at a sufficient score to retain fundability for Wisconsin fund assistance, if all other requirements of eligibility are satisfied.

(5) In cases where projects are undergoing a federally required full environmental impact analysis, and scores are recalculated under this chapter, the department shall allow the grantee the option for one year after the completion of the environmental impact statement to be ranked for priority, either under the score assigned at the time of the initiation of the environmental process or the new score mandated by this chapter.

SECTION 10 - Section NR 160.07 is amended to read:

NR 160.07 Cluster projects. (1) Where several projects are proposed to be associated with a common project and are not separable in their analysis, design, construction and management, the department may consider them as a cluster project. ~~In making its determination, the department will consider technological and economic feasibility, as well as environmental and institutional considerations. Sanitary sewer collection systems will not be considered as part of a cluster project.~~

~~(1m) Sanitary sewer collection systems eligible under the Federal Water Pollution Control Act, with final construction plans approved by the state prior to October 18, 1972, in a metropolitan sewerage district existing prior to January 1, 1975, to serve an unsewered developed municipality, as defined in section 144.01(12), Wis. Stats., existing as of October 18, 1972, whose initial dry weather sanitary sewage flow is at least equal to the total proposed initial dry weather sanitary sewage flow from a previously sewered municipality to the new treatment plant proposed to be constructed by the metropolitan sewerage district can be funded as part of a cluster project. For sewer projects funded under this section, the sewer system cost in the~~

~~unsewered-municipality-to-provide-one-half-of-the-total-initial-dry-weather flow-to-the-new-treatment-plant-may-be-funded-at-the-same-time-as-the-plant-is funded,-while-the-other-portion-of-the-sewer-system-cost-may-be-funded-out-of the-next-year's-federal-allocation.--However,-no-more-than-one-half-of-the sanitary-sewer-system-shall-be-funded-the-first-year.~~

~~(2)--Cluster-projects-will-be-assigned-the-priority-value-of-the-highest individual-project,-adjusted-to-include-the-sum-of-population-equivalents which-contribute-to-the-common-project.~~

(2) In making its determination, the department shall: (a) Cluster a project with the priority value of a treatment plant project under s. NR 160.03(6)(a) or (b) only if:

1. The project significantly affects the treatment plant design and operation; and

2. The projects which the project sponsor seeks to cluster are in substantial compliance with the requirements of either a Wisconsin pollutant discharge elimination system permit compliance schedule or a court approved compliance schedule under ch. 147, Stats.

(b) Not consider sanitary sewer collection systems as a part of a cluster project.

(c) Cluster factor scores either upward or downward to those of the highest scoring project to correct failure of a treatment plant to achieve final effluent limits, other violations of WPDES permit conditions, or documented health hazards.

(d) Adjust the population score to include the sum of the population equivalents which contribute to the common project.

(3) For determination of (step 1) facilities planning priorities, a formal resolution of intent to discharge to a single regional waste treatment plant by the governing bodies of the participating municipalities will be required ~~prior-to-consideration-of-such-a-project~~. For consideration of (step 2) plans and specifications grants and (step 3) construction grants, a contract committing the participating municipalities to cooperative wastewater treatment will be required. When a statement of intent or a contract to effect regional treatment is submitted for each municipality together with a single priority evaluation review form, a cluster priority will be considered.

SECTION 11 - Section NR 160.08 is renumbered s. NR 160.09.

SECTION 12 - Section NR 160.08 is created to read:

NR 160.08 Annual funding policies. The department shall establish funding policies in conjunction with the project priority list, including project bypass procedures, before the beginning of the federal fiscal year. These funding policies shall be subject to public hearing and endorsement by the natural resources board.

SECTION 13 - A note following s. NR 160.09 is created to read:

Note: Provisions of this chapter shall be amended when necessary as a result of changes in federal program regulations, subject to public hearing.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on April 23, 1981 and July 22, 1981.

The rules contained herein shall take effect following publication as provided in section 227.026(1) (intro.), Wisconsin Statutes.

Dated at Madison, Wisconsin August 7, 1981

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny
Carroll D. Besadny, Secretary

(SEAL)



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

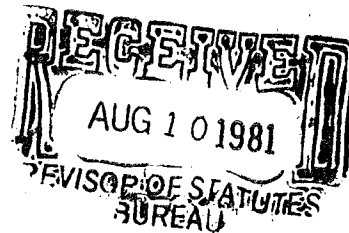
Carroll D. Besadny
Secretary

BOX 7921
MADISON, WISCONSIN 53707

August 7, 1981

IN REPLY REFER TO: 1020

Mr. Orlan L. Prestegard
Revisor of Statutes
411 West
C A P I T O L

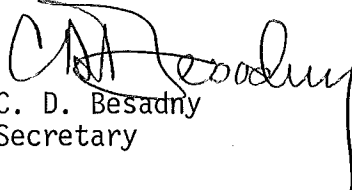


Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. FA-1-81. These rules were reviewed by the Assembly Committee on Environmental Resources and the Senate Committee on Agriculture and Natural Resources pursuant to s. 227.018, Stats. Modifications were made at the request of the Assembly Committee on Environmental Resources.

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

Sincerely,


C. D. Besadny
Secretary