

CR 93-134



George E. Meyer  
Secretary

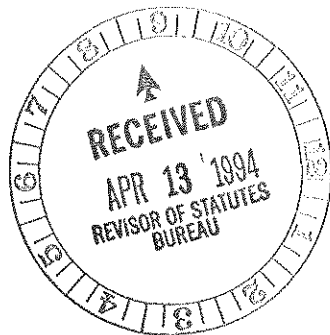
**State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES**

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STATE OF WISCONSIN )  
 )  
DEPARTMENT OF NATURAL RESOURCES )      ss

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. PM-35-93 was duly approved and adopted by this Department on December 9, 1993. 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 6<sup>th</sup> day of April, 1994.

*George E Meyer*  
George E. Meyer, Secretary

(SEAL)

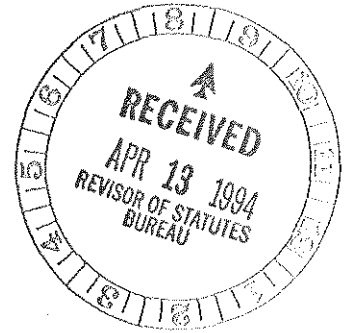
7-1-94



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

IN THE MATTER OF repealing ss. NR 51.05 (6)(a)7, 10, (b)8, (c)10, 51.06(4), 51.07(3) & (5), 51.62(3) & (4); renumbering ss. NR 51.05(6)(a)8, 9, 11 & 12, (b)9 & 10, (c)11 to 13, 51.06(5) to (7), 51.07(4) & (6); amending ss. NR 51.02, 51.04(3)(intro.), (a)(note), (10), 51.05(2), (6)(a)2 & 4.b., (b)2, (c)1, 51.06(1)(b) & (2), 51.07(1), 51.08(2)(note), ch. 51 subch. IV (title), 51.60, 51.61, 51.73(1); repealing and recreating ss. NR 51.62(1), 51.63 to 51.66; and creating ss. NR 51.03(1m), 51.05(6)(a)4.c., 51.06(7), 51.07(4), ch. 51 subch. VI of the Wisconsin Administrative Code pertaining to administration of the Stewardship program.

PM-35-93



Analysis Prepared by the Department of Natural Resources

Statutory authority: s. 227.11(2), Stats.

Statutes interpreted: ss. 23.094, 23.096, 23.098, 23.175, 23.098, 69.955, and 69.96 Stats.

In this order: the Stewardship program is being modified in four primary areas: 1) the Nonprofit Conservation Organization element is being modified in response to Nonprofit Conservation Organization Group requests to enhance participation and improve overall program administration; 2) the Stream Bank Protection element is being revised to accommodate statutory authority to acquire land for stream bank protection in fee simple and to improve program administration; 3) the State Trails element is being revised to designate new state trails; and, 4) a new subchapter regarding Grants to Friends for development of State Properties is being created to administer new authority allowing the department to award grants to friends groups for development projects.

SECTION 1. NR 51.02 is amended to read:

NR 51.02 APPLICABILITY. This subchapter is applicable to nonprofit conservation organizations who wish to apply for grants for the acquisition of land or permanent land rights as specified in s. 23.096, Stats., for any one of the following stewardship grant programs: s. 23.092, Stats., habitat restoration areas; s. 23.094, Stats., stream bank ~~easements~~ 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; and s. 23.09(20), Stats., aids for the acquisition and development of local parks.

SECTION 2. NR 51.04(3)(intro.), (3)(a)note and (10) are amended to read:

NR 51.04(3)(intro.) Appraisals are required for all ~~grants~~ parcels.

(a) Note: Copies of the department's appraisal guidelines are available from the DNR, Bureau of ~~Property Management~~ Community Assistance, Box 7921, Madison, WI 53707.

(10) Except as provided in s. NR 51.06(2), sponsors may apply for grants under one or more stewardship programs, but the aggregate of all grants awarded may not exceed 50% of the acquisition cost of the property. No parcel may qualify over time for a second stewardship grant ~~of any type~~ for acquisition of the parcel.

SECTION 3. NR 51.05(2) and (6)(a)2 and 4.b. are amended to read:

NR 51.05(2) Applications for grants, except as otherwise stated, shall be submitted by April 1 prior to the state fiscal year for which funding is requested. Applications for grants received after April 1 shall be considered on a case-by-case basis to the extent that funds are available.

(6)(a)2. A copy of the nonprofit conservation organization's bylaws, ~~charter~~ and articles of incorporation.

4.a. Authorizing a representative to apply for a grants on their behalf;  
and

4.b. Acknowledging the long-term ownership and management responsibilities of the stewardship program; and

SECTION 4. NR 51.05(6)(a)4.c. is created to read:

NR 51.05(6)(a)4.c. Assuring that the organization shall abide by all applicable stewardship statutes and rules.

SECTION 5. NR 51.05(6)(a)7. is repealed.

SECTION 6. NR 51.05(6)(a)8 and 9 are renumbered (6)(a)7 and 8, and (6)(a)7, as renumbered is amended to read:

NR 51.05(6)(a)7. A description of the nonprofit conservation organization's financial history including income and expenses, assets and liabilities and fund balances for the past 5 3 years, ~~a current statement of liabilities and assets and a projection of income and sources for next 5 years.~~ New organizations in existence less than 5 3 years shall provide information back to the date of the organization's origination. This information can be in the form ~~provided in~~ of:

a. ~~Reports to the IRS~~ The IRS Form 990; or

b. ~~A statement of net worth~~ A balance sheet and related statement of revenues and expenses, with the most recent year's prepared and certified by a certified public accountant.

SECTION 7. NR 51.05(6)(a)10 and 11 are repealed.

SECTION 8. NR 51.05(6)(a) 12 is renumbered (6)(a)9.

SECTION 9. NR 51.05(6)(a)11 is repealed.

SECTION 10. NR 51.05(6)(b)2 is amended to read:

NR 51.05(6)(b)2. A description of the proposed development and land management plan and practices for the ~~property project~~, general time frame for project implementation and completion, and a description of how long-term management will be provided. Identification of any other groups or governmental units that will be involved in management, development or ownership and their role.

SECTION 11. NR 51.05(6)(b)8. is repealed.

SECTION 12. NR 51.05(6)(b)9 and 10 are renumbered (6)(b)8 and 9.

SECTION 13. NR 51.05(6)(c)1. is amended to read:

NR 51.05(6)(c)1. A copy of county, township, topographic, ~~local land use plan~~ and tax maps showing the property to be acquired.

SECTION 14. NR 51.05(6)(c)10 is repealed.

SECTION 15. NR 51.05(6)(c)11 to 13 are renumbered (6)(c)10 to 12.

SECTION 16. NR 51.06(1)(b) and (2) are amended to read:

NR 51.06(1)(b) Grants, excluding the purchase price, easement and relocation payments, may not exceed ~~\$5,000~~ \$10,000 per parcel unless agreed to in writing by the department, in which case this portion of the grant may not exceed \$20,000.

(2) The sponsor, with the prior written approval of the department, may combine the acquisition of one or more parcels in one project or program and may apply for and the department may calculate grant awards for more than one parcel at a time. Application ~~and approval of~~ for grants shall occur within ~~12~~ 36 months of the acquisition of the first parcel.

SECTION 17. NR 51.06(4) is repealed.

SECTION 18. NR 51.06(5) to (7) are renumbered (4) to (6).

SECTION 19. NR 51.06(7) is created to read:

NR 51.06(7)(a) Except as provided in par. (b), grant payments may not be made until a title report indicating sound title has been issued and until the interest of the state under the grant contract has been placed in the chain of title.

(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 held by a title insurance company, a financial institution or attorney before the conveyance of the property to the sponsor if the department has received and approved a copy of a title commitment for the property 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 of Wisconsin in the property under the terms of the grant contract.

4. If for any reason, the escrow holder is unable to release the funds on the closing date intended, the funds shall be returned to the department within 30 days unless the department has agreed to an extension of the closing date.

SECTION 20. NR 51.07(1) is amended to read:

NR 51.07(1) Stewardship grants shall be subject to the execution of a grant contract ~~with between the sponsor and the department.~~ The purpose of the contract is to ~~place a permanent state interest on the land~~ recognize the state's interest in the property to ensure that the ~~land property~~ is managed in ~~the~~ a manner meeting the stipulations and conditions of the grant and the stewardship program.

SECTION 21. NR 51.07(3) is repealed.

SECTION 22. NR 51.07(4) is renumbered 51.07(3).

SECTION 23. NR 51.07(4) is created to read:

NR 51.07(4) Grant payments may not be made until the grant contract has been signed and recorded, unless otherwise stated in the grant contract.

SECTION 24. NR 51.07(5) is repealed.

SECTION 25. NR 51.07(6) is renumbered 51.07(5) and (5) (intro.), (i)2 and (j), as renumbered, are amended to read:

NR 51.07(5) (intro.) The terms and conditions specified in the grant contract shall contain but not be limited to the following:

(i) 2. ~~The new sponsor~~ If the sponsor is a nonprofit conservation organization, which has not previously had a part I application approved by the department, the new sponsor shall file parts part I and II of the grant application with the department and. The new sponsor shall provide a notarized statement prior to the property transfer that it has received and reviewed the existing grant contract, part II application and management plan and shall abide by its their provisions.

(j) If the sponsor violates any provision or condition of the grant contract identified as essential pursuant to s.23.096 (5), Stats. or the stewardship grant program under which it was awarded and fails to correct the violation within 6 months after written notification to the sponsor from the department, all title, right and interest in and to the property shall vest in the state without the necessity of reentry.

SECTION 26. NR 51.08(2) (note) is amended to read:

Note: Copies of the department's guidelines for environmental inspection reports and forms are available from the DNR, Bureau of ~~Property Management Community Assistance~~, Box 7921, Madison, WI 53707.

SECTION 27. Chapter NR 51 Subchapter IV Title is amended to read:

Subchapter IV  
STREAM BANK ~~EASEMENT~~ PROTECTION PROGRAM

SECTION 28. NR 51.60 and 51.61 are amended to read:

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

NR 51.61 APPLICABILITY. This subchapter applies to the department program to acquire land or stream bank easements under ~~the program established in s. 23.094, Stats., and to stream bank easement~~ protection grants to nonprofit conservation organizations pursuant to s. 23.096, Stats.

SECTION 29. NR 51.62(1) is repealed and recreated to read:

NR 51.62(1) "Management plan" means a written plan prepared in accordance with the department's master planning process describing conditions and activities which shall be enforced and allowed on lands and easements acquired under s. 23.094, Stats.

SECTION 30. NR 51.62(3) and (4) are repealed.

SECTION 31. NR 51.63 is repealed and recreated to read:

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 land rights. 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.

SECTION 32. NR 51.64 to 51.66 are repealed and recreated to read:

NR 51.64 MANAGEMENT PLANS. The department shall prepare a management plan for each stream or stream segment on which it intends to acquire land or stream bank easements.

NR 51.65 LAND MANAGEMENT CONDITIONS. (1) The following activities are prohibited on land and easements 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. 66.955 and 66.96, Stats., or to control pests on an emergency basis when such control is necessary to protect public health.

(2) Whenever possible, the area included in acquisitions and easements 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 in acquisition and easement areas 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 for the term of the easement, 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 the easement.

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

NR 51.66 GRANTS TO NONPROFIT CONSERVATION ORGANIZATIONS. Grants may be made to nonprofit conservation organizations to acquire land or easements on stream corridors which meet the criteria established in s. NR 51.63.

SECTION 33. NR 51.73(1) is amended to read:

NR 51.73(1) The Ahnapee, "400", Bearskin, Buffalo River, Chippewa River, Elroy-Sparta, Glacial Drumlin, Great River, La Crosse River, Military Ridge, Pecatonica, Red Cedar, Sugar River, Gandy Dancer, Tuscobia, Old Abe, Hillsboro, Saunders, Green Circle, Wiouwash and Wild Goose state park trails are designated as state trails.

SECTION 34. Chapter NR 51, Subchapter VI is created to read:

#### Subchapter VI

Friends Group Grants for State Property Development Under s. 23.098, Stats.

NR 51.80 PURPOSE. The purpose of this subchapter is to establish criteria and procedures for the implementation of grants to friends groups for property development under s. 23.098, Stats.

NR 51.81 APPLICABILITY AND DEFINITIONS. This subchapter is applicable to friends groups organized for, and under formal agreement with the department for properties or programs under s. 23.098(1), Stats., and s. NR 1.71.

NR 51.82 ELIGIBLE PROJECTS. All projects shall be consistent with property master plans, or be from a comprehensive list of potential projects which shall be prepared by the department annually, or be from the department's 6 year development plan.

NR 51.83 PRIORITIES. Priority shall be given to those projects, not listed in order of priority, that:

(1) Implement a department approved interpretive program.

(2) Provide for increased accessibility for people with disabilities.

(3) Complete a major restoration or rehabilitation project on the property using native flora or fauna or both.

(4) Improve the department's or friends group's ability to provide special events, programs, public information, or marketing strategies consistent with the goals of the department for that property.

(5) Add user amenities which are in addition to basic facilities already provided for at the property.

(6) Include ways to fund or assist in funding any new associated operational costs related to completing the proposed project.

NR 51.84 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.

Note: A copy of these forms may be obtained from the property manager.

(2) Any environmental assessment, permits and miscellaneous approvals required to implement the project shall be the responsibility of the department.

(3) Applications shall be coordinated with and approved by the property manager and district director before delivery to the bureau of parks and recreation.

(4) Applications for each proposed project shall be submitted to the property manager by April 1 prior to the state fiscal year for which funding is requested. Applications for grants received after April 1 shall be considered on a case-by-case basis to the extent that funds are available.

(5) Grant awards may be given for up to 50% of the actual cost of the project and are restricted by all other conditions of s. 23.098, Stats. Grant funds shall be deposited in a separate project account established by the friends group and may be used only for the project described in the approved grant application.

(6) The department shall evaluate all completed applications to determine which applicants shall receive grants according to the priorities in this subchapter. Up to 100% of the grant monies may be advanced to the successful friends group applicant once the applicant can show they have 100% of their share of project monies in the separate project account described in sub. (5).

(7) Each friends group which receives a grant award shall maintain accurate and complete financial records of project expenses in accordance with department reporting requirements. A final accounting of project expenditures shall be submitted to the property manager within 60 days of the completion of the project or by the date indicated in the grant agreement, whichever is sooner. If actual expenses for the project are less than estimated, the friends group shall return unused grant funds with the final report.

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



The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on December 9, 1993.

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 4/6/94

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By George E. Meyer  
George E. Meyer, Secretary

(SEAL)

