

Chapter NR 58

ENDANGERED RESOURCES GRANT PROGRAMS

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Subchapter I — General Provisions

NR 58.01 Purpose. The purpose of this chapter is to establish rules for the implementation and administration of grant programs to fund research, protection, management and educational activities pertaining to Wisconsin's natural communities and rare flora and fauna.

History: Cr. Register, September, 1994, No. 465, eff. 10-1-94; CR 05-071: am. Register February 2006 No. 602, eff. 3-1-06.

NR 58.02 Applicability. This chapter applies to all endangered resources grant programs under this chapter.

History: Cr. Register, September, 1994, No. 465, eff. 10-1-94; CR 05-071: r. and recr. Register February 2006 No. 602, eff. 3-1-06.

NR 58.03 Definitions. In this chapter:

(1) "Applicant" means an individual or organization that submits an application for funding under this chapter.

(2) "Bureau" means bureau of endangered resources.

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

(4) "Grant agreement" means a written cooperative agreement between the grantee and department which sets forth mutual obligations with regard to a portion or all of a specific project.

(5) "Grant period" means the period of time specified in the agreement during which all work funded by the grant shall be accomplished.

(6) "Indirect costs" means costs not directly assignable to a grant, program or project but administrative in nature, incurred for a common or joint purpose including, but not limited to, utilities, administrative salaries, secretarial services and postage.

(7) "Natural community" means a complex of flora, fauna and physical elements which is in, or close to being in, its pre-settlement condition.

(8) "Natural heritage inventory database" has the meaning specified in s. NR 51.002 (20).

History: Cr. Register, September, 1994, No. 465, eff. 10-1-94; CR 05-071: am. (8) Register February 2006 No. 602, eff. 3-1-06.

NR 58.05 Eligible and ineligible costs. (1) **ELIGIBLE COSTS.** Those project costs which are consistent with the approved project scope, reasonable and necessary, and incurred during the grant period are eligible for grant funding. Eligible costs may include, but are not limited to any of the following:

- Wages of personnel engaged in the project.
- The purchase of supplies and equipment.
- The costs of leased equipment and facilities.
- Travel expenses – mileage, per diem and lodging.

(e) Computer time and data processing.

(f) Printing costs.

(g) Costs of contracts or subcontracts to qualified vendors to perform project activities.

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

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

(b) Ordinary operating expenses of agencies that are not directly related to the project;

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

(d) Program costs incurred beyond the grant period;

(e) Donated labor, materials, land or other activities which do not result in actual expenditure by the grantee; and

(f) Indirect costs.

History: Cr. Register, September, 1994, No. 465, eff. 10-1-94; CR 05-071: cr. (1) (g) Register February 2006 No. 602, eff. 3-1-06.

NR 58.06 Grant conditions. (1) **DURATION.** The grantee may not begin work described under the grant agreement until the grant agreement has been signed by the department and the grantee.

(2) **PERMISSION FROM PROPERTY OWNERS AND MANAGERS.** The grant agreement shall contain provisions regarding access to private and government property by department employees and the grantee.

(3) **PERMITS.** Applicants shall verify that all applicable federal and state permits, approvals, licenses or waivers necessary to implement the project have been obtained or applied for. Work on the proposed project may not commence until all applicable permits have been obtained.

History: Cr. Register, September, 1994, No. 465, eff. 10-1-94; CR 05-071: am. (1), r. (4) to (7) Register February 2006 No. 602, eff. 3-1-06.

NR 58.07 Grant application. (1) **APPLICATION AVAILABILITY.** Applicants shall obtain application forms and instructions from the Bureau of Endangered Resources, Department of Natural Resources, P.O. Box 7921, Madison, WI 53707.

(2) **CONTENTS.** The application shall include:

(a) A project narrative, objectives, methods, timetable and budget, in the format provided in the instructions; and

(b) For state employees only, a completed and approved outside employment form.

(3) **ADDITIONAL INFORMATION.** The department may request additional information from the applicant upon receipt of the application.

(4) **DEADLINE.** Applications are due by the date provided in the application instructions.

History: Cr. Register, September, 1994, No. 465, eff. 10-1-94; CR 05-071: am. (2) (a), cr. (3) and (4) Register February 2006 No. 602, eff. 3-1-06.

NR 58.08 Grant selection criteria. Factors considered in awarding grants shall include but are not limited to the following:

(1) The applicant's ability to carry out the project using sound scientific, management or educational practices as evidenced by credentials, experience and the level of detail provided in the application;

(2) The reasonableness of the budget for the project;

(3) The extent to which the proposed methods would achieve the project objectives.

(4) The history and capacity of the grantee to achieve the project objectives.

History: Cr. Register, September, 1994, No. 465, eff. 10-1-94; CR 05-071: r. (3) and (5), r. and recr. (4), renum. (6) to be (3) Register February 2006 No. 602, eff. 3-1-06.

NR 58.09 Grant payment. (1) **INITIAL PAYMENTS.** Upon acceptance of the grant offer, the grantee may request up to 50% of the total amount of the grant by submitting an advance payment request.

(2) **INTERIM PAYMENTS.** Interim payments shall be paid to the grantee based on the payment schedule in the grant agreement.

(3) **FINAL PAYMENT.** The grantee shall submit the final payment request within 60 days after project completion or after the grant expiration date, whichever occurs first. The department shall pay the remainder of the grant to the grantee upon approval of the final report as required by s. NR 58.11 (2) and the final accounting of project expenditures.

(4) **UNEXPENDED MONIES RETURNED.** The grantee shall return any unexpended grant monies to the department within 60 days after expiration of the grant period.

(5) **PAYMENTS FOR PROJECT MODIFICATIONS.** Payments may not be paid for project modifications unless approved by the department.

History: Cr. Register, September, 1994, No. 465, eff. 10-1-94; CR 05-071: r. (1), renum. (2) (a) to (d) to be (1) to (4), am. (1), cr. (5) Register February 2006 No. 602, eff. 3-1-06.

NR 58.10 Grant agreements. (1) The grantee and the department shall develop and approve a grant agreement which shall specify terms for all conditions listed under s. NR 58.06 and all of the following:

(a) Cancellation of agreement;

(b) Project objectives, methods and budget;

(c) Schedule and procedures for payment of grant;

(d) Ownership of equipment purchased with grant monies; and

(e) Schedule and procedures for interim and final reports.

(2) The grantee shall execute and deliver a release, as part of the grant agreement, discharging the state of Wisconsin, its officers, agents and employees from all liabilities, obligations and claims arising out of the project work or under the grant, subject only to any exceptions specified in the release.

History: Cr. Register, September, 1994, No. 465, eff. 10-1-94; CR 05-071: renum. (1) to (5) to be (1) (intro.) and (a) to (e), am. (1) (intro.), cr. (2) Register February 2006 No. 602, eff. 3-1-06.

NR 58.11 Reports. (1) **INTERIM REPORTS.** The department may require one or more interim reports. As requested by the department, each grant recipient shall submit to the department one or more interim reports which contain details of progress, findings, problems and other information regarding the status of the project as stated in the grant agreement.

(2) **FINAL REPORT.** Each grant recipient shall submit a final report to the department within 60 days after the grant expiration date. The final report shall include the following:

(a) A project summary, methods, results and discussion where applicable;

(b) Documentation of all project modifications that may have occurred, including an explanation of why modifications were necessary;

History: Cr. Register, September, 1994, No. 465, eff. 10-1-94; CR 05-071: am. (1) (intro.), r. (2) (c) to (e) Register February 2006 No. 602, eff. 3-1-06.

NR 58.12 Grantee accountability. (1) **RECORDS MANAGEMENT.** The grantee shall maintain an accounting system that accurately reflects all fiscal transactions, incorporates appropriate controls and safeguards, and provides clear references, particularly to source or original documents. Records shall meet the following minimum requirements:

(a) Project accounts shall separate grant receipts and eligible expenditures from those allocable to other programs and activities.

(b) Receipts and expenditures shall be listed and identified in sufficient detail to reflect their source and purpose. Proof of payment, such as canceled checks or receipts from vendors, shall be maintained.

(c) Records that reflect actual project hours worked by day by each individual as well as gross wages paid shall be maintained. Records shall also include work performed by day.

(2) **RECORDS RETENTION AND AUDITING.** The grantee shall retain all records pertaining to the project and make them available to the department on request until the department issues final payment.

History: Cr. Register, September, 1994, No. 465, eff. 10-1-94.

NR 58.13 Grant variances. The department may approve in writing variances from non-statutory requirements of this chapter upon request of the grantee when it is determined that variances are essential to effect necessary actions or department objectives, and where special circumstances make variances in the best interest of the state, taking into account factors such as good cause, circumstances beyond the control of the grantee and financial hardship.

History: Cr. Register, September, 1994, No. 465, eff. 10-1-94.

NR 58.14 Grant termination. (1) **GENERAL.** The department and a grantee may enter into an agreement to terminate the award at any time.

(2) **JUSTIFICATION.** The department may terminate the grant in whole or in part and the grantee shall repay the department any grant money that was not spent or that was inappropriately spent plus interest at 5% annually accrued within 3 years of the date the grant agreement was executed if the department determines any of the following:

(a) There has been no substantial progress made on the project by the grantee, without good cause.

(b) There is substantial evidence that the grant was obtained by fraud.

(c) There is substantial evidence of gross abuse or corrupt practices in the administration of the project.

(d) The grantee has failed to comply with the provisions of this chapter or of the grant agreement.

(e) The grantee has not completed the grant project within the grant period and failed to amend or extend the grant period through an agreement between the department and the grantee.

History: Cr. Register, September, 1994, No. 465, eff. 10-1-94; CR 05-071: am. (2) (intro) and (a) to (c), cr. (e) Register February 2006 No. 602, eff. 3-1-06.

NR 58.15 Enforcement. The following sanctions may be imposed for noncompliance with any of the provisions of this chapter or the grant agreement:

(1) The grant may be terminated under s. NR 58.14.

(2) Program costs directly related to the noncompliance may be declared ineligible.

(3) Other administrative and judicial remedies may be instituted as legally available and appropriate.

(4) The department may seek recovery of some or all payments.

History: Cr. Register, September, 1994, No. 465, eff. 10-1-94; CR 05-071: am. (1) Register February 2006 No. 602, eff. 3-1-06.

Subchapter II — Endangered Resources Small Grants Program

NR 58.20 Purpose. The purpose of this subchapter is to establish rules for the implementation and administration of the small grants program to fund research, management and educational activities pertaining to Wisconsin's natural communities and rare flora and fauna.

History: CR 05-071: cr. Register February 2006 No. 602, eff. 3-1-06.

NR 58.21 Applicability. This subchapter applies to all applicants for, and recipients of, grant awards made pursuant to s. 20.370 (1) (fe), Stats.

History: CR 05-071: cr. Register February 2006 No. 602, eff. 3-1-06.

NR 58.22 Eligibility for grant assistance. (1) ELIGIBLE APPLICANTS. All of the following applicants are eligible for a grant:

(a) County, city, village, town and tribal governmental agencies.

(b) Individuals.

(c) Nonprofit organizations.

(d) Educational institutions.

(2) ELIGIBLE PROJECTS. Projects which have as their objective one or more of the following shall be eligible for a grant under this chapter:

(a) Identification, protection and management of native plant and animal species and natural communities.

(b) Enhancement and restoration of populations and habitats of rare and endangered species.

(c) Promotion of knowledge, appreciation and stewardship of Wisconsin's native species and ecosystems.

History: CR 05-071: cr. Register February 2006 No. 602, eff. 3-1-06.

NR 58.23 Grant conditions. In addition to the conditions listed in s. NR 58.06, all of the following grant conditions apply to the small grants program:

(1) **DURATION.** The grant period may not exceed 3 years.

(2) **PUBLICATIONS.** The grantee shall:

(a) Provide the department with one copy of all publications and news releases which result from the project grant; and

(b) Include in all publications and news releases which result from the project grant acknowledgement of the endangered resources fund as a source of funding for the project.

(3) **DATA AVAILABILITY.** The grantee shall make data collected under this program available for incorporation into the natural heritage inventory database.

(4) **SITE VISIT.** The grantee shall allow department personnel to visit the project site at reasonable times with notice.

History: CR 05-071: cr. Register February 2006 No. 602, eff. 3-1-06.

NR 58.24 Grant awards. No award may exceed \$10,000.

History: CR 05-071: cr. Register February 2006 No. 602, eff. 3-1-06.

NR 58.25 Grant selection criteria. In addition to the factors listed in s. NR 58.08, factors considered in awarding grants shall include but are not limited to the following:

(1) The extent the project will lead to increased useful, scientific knowledge based upon existing and anticipated research, management or educational activities.

(2) The extent to which the proposed project corresponds to the objectives stated in s. NR 58.22 (2).

(3) The extent to which the proposed project avoids negative impact on existing resources.

History: CR 05-071: cr. Register February 2006 No. 602, eff. 3-1-06.

NR 58.26 Final report. In addition to the items listed in s. NR 58.11 (2), the final report shall include all of the following:

(1) Documentation of all public information and educational activities which were conducted throughout the project.

(2) Conclusions reached or products developed as a result of the project.

(3) An appendix that includes all references and supporting documents appropriate to the final report.

History: CR 05-071: cr. Register February 2006 No. 602, eff. 3-1-06.

Subchapter III — Federal Grant Programs

NR 58.30 Purpose. The purpose of this subchapter is to establish rules for the implementation and administration of grant programs to fund management, restoration and protection activities pertaining to Wisconsin's natural communities and rare flora and fauna on private land, or Wisconsin's species of greatest conservation need as identified in the Wisconsin wildlife action plan, or both.

History: CR 05-071: cr. Register February 2006 No. 602, eff. 3-1-06; CR 08-014: am. Register September 2008 No. 633, eff. 10-1-08.

NR 58.31 Applicability. (1) This subchapter applies to all applicants for, and recipients of, grant awards made under the landowner incentive program and the state wildlife grants program. These programs were established through the Department of the Interior and Related Agencies Appropriations Act of 2002, Public Law 107-63; Title I; Land and Water Conservation Fund Act of 1965, USC ss. 460/-4 through 460/-11.

(2) Funds from the following sources may be distributed by grant programs covered under this subchapter:

(a) Funding allocated from programs established under Section 387 of the Federal Agricultural Improvement and Reform Act of 1996 and reauthorized in the Farm Security and Rural Investment Act of 2002, Title II; Subtitle F, Sec. 2502: "Sec. 1240N. *Wildlife Habitat Incentive Program*".

(b) Department budget appropriation 116, s. 20.370 (1) (fe), Stats., general purpose revenue match.

(c) Department budget appropriation 163, s. 20.370 (1) (fs), Stats., checkoff, license plate, and miscellaneous revenue.

(d) Department budget appropriation 161, s. 20.370 (1) (mu), Stats., fish and wildlife account.

(e) Department budget appropriation 137, s. 20.370 (1) (Lk), Stats., gaming revenue.

(f) Department gift money under s. 20.370 (1) (fu), Stats., expressly designated for the purpose of grant awards.

History: CR 05-071: cr. Register February 2006 No. 602, eff. 3-1-06; CR 08-014: renum. to be (1) and am., cr. (2) Register September 2008 No. 633, eff. 10-1-08; correction in (2) (f) made under s. 13.92 (4) (b) 7., Stats., Register November 2018 No. 755.

NR 58.32 Definitions. In addition to the definitions in s. NR 58.03, the following definitions apply to this subchapter:

(1) "Advisory team" refers to the state wildlife grant program advisory team created in s. NR 58.33 (3).

(2) "At-risk species" means any flora or fauna species listed as endangered or threatened at the state or federal level, special concern species, or species of greatest conservation need.

(3) "Endangered species at the federal level" means species listed in 50 CFR 17.11 to 50 CFR 17.12.

(4) "Endangered species at the state level" means species listed in s. NR 27.03 (2).

(5) "Guidance team" refers to the landowner incentive program guidance team created in s. NR 58.33.

(6) "LIP" means the landowner incentive program.

(7) "Natural communities" include the following:

(a) Aquatic habitat.

(b) Barrens.

(c) Grasslands.

(d) Northern forests.

(e) Savannas.

(f) Southern forests.

(g) Wetlands.

(h) Other rare natural communities including: algific talus slope, alvar, bedrock glade, bedrock shore, clay seepage bluff, dry cliff, felsensmeer, forested ridge and swale, great lakes alkaline rockshore, great lakes beach, great lakes dune, inland beach, moist cliff, talus forest.

(8) "Private land" means any land not owned by a governmental entity.

(9) "Special concern species" are those species for which there appears to be some problem of abundance or distribution. These species are listed on the Wisconsin natural heritage working list.

(10) "Species of greatest conservation need" refers to the list of species in the comprehensive wildlife conservation plan.

(11) "SWG" means the state wildlife grants program.

(12) "Threatened species at the federal level" means species listed in 50 CFR 17.11 to 50 CFR 17.12.

(13) "Threatened species at the state level" means species listed in s. NR 27.03 (3).

(14) "Wisconsin wildlife action plan" means the statewide plan prepared by the department to identify which native Wisconsin species are of greatest conservation need. The plan presents priority conservation actions to protect the species and their habitats.

Note: Copies of the Wisconsin wildlife action plan (also known as the comprehensive wildlife conservation plan) and the Wisconsin Natural Heritage Inventory (NHI) Working List are available from the Bureau of Endangered Resources, Department of Natural Resources, P.O. Box 7921, Madison, WI 53707. The NHI working list contains species known or suspected to be rare in the state and natural communities native to Wisconsin. It includes species legally designated as endangered or threatened and special concern species. The NHI program in the Bureau of Endangered Resources maintains and updates the list.

History: CR 05-071: cr. Register February 2006 No. 602, eff. 3-1-06; CR 08-014: renum. (1), (2), (6) to (8), (11), (12) to be (2), (14), (7), (8), (6), (12), (13), am. (2), (6), (14), cr. (1), (11) Register September 2008 No 633, eff. 10-1-08; corrections in (3), (12) made under s. 13.92 (4) (b) 7., Stats., Register November 2018 No. 755.

NR 58.33 Program guidance/advisory team.

(1) CREATION; COMPOSITION. For each grant program, department staff shall assemble a guidance or advisory team which may include representatives of the following groups:

(a) Department of Natural Resources.

(b) Natural Resources Conservation Service.

(c) United States Fish and Wildlife Service.

(d) National and statewide non-governmental conservation organizations.

(e) Any other individual or groups determined appropriate by program staff.

(2) ROLE OF THE LIP GUIDANCE TEAM. The team shall make recommendations to department program staff to help guide the program, designate the species or communities of special emphasis and fund proposals.

(3) ROLE OF THE SWG ADVISORY TEAM. The team shall make recommendations to department program staff to fund proposals.

History: CR 05-071: cr. Register February 2006 No. 602, eff. 3-1-06; CR 08-014: am. (title), (1) (intro.) and (2) (title), cr. (3) Register September 2008 No. 633, eff. 10-1-08.

NR 58.34 Eligibility for grant assistance; preference.

(1) LIP ELIGIBLE APPLICANTS. Private landowners and organizations interested in managing and restoring habitat on private land for at-risk species are eligible to apply for an LIP grant under this subchapter. Proposals that enhance, protect or restore habitat on private land that benefits at-risk species will be considered for funding.

(2) SWG ELIGIBLE APPLICANTS. Private landowners and organizations proposing projects to benefit species of greatest conservation need, as defined in the Wisconsin wildlife action plan, are eligible to apply for a SWG grant.

(3) GRANT PROGRAM SPECIAL EMPHASIS. Special emphasis may be placed, on an annual basis, on one or more geographic areas, species, or natural communities targeted by the grant program if designated in the application. The grant program guid-

ance or advisory team and department program staff may develop special emphasis based on gaps in existing funding for species work and the need for protection of habitat of species based on threats to their habitat.

History: CR 05-071: cr. Register February 2006 No. 602, eff. 3-1-06; CR 08-014: am. (1), renum. (2) to be (3) and am., cr. (2) Register September 2008 No. 633, eff. 10-1-08.

NR 58.35 Grant selection process.

(1) The grant program guidance team, or a subcommittee of the grant program guidance team, shall rank the grants according to criteria specified in the grant application materials.

(2) In addition to the grant selection criteria in s. NR 58.08, factors considered in ranking LIP grant proposals include any of the following:

(a) Proposals that enhance, protect or restore habitat benefiting at-risk species.

(b) Proposals for private land with existing at-risk species populations.

(c) Proposals that provide private landowner cost-share greater than 25%.

(3) In addition to the grant selection criteria in s. NR 58.08, factors considered in ranking SWG grant proposals include any of the following:

(a) The extent to which the proposal furthers the objectives as stated in the application materials.

(b) The degree to which the project complements other efforts and makes efficient use of all other available funding sources.

(c) The degree to which the project assists local or regional decision making or formation of a strategy to protect the species and natural communities identified in the Wisconsin wildlife action plan.

(e) The degree to which the project will provide a long term or permanent benefit for one or more species or natural communities identified within the Wisconsin wildlife action plan.

(f) The level of community support and commitment, including past efforts to benefit one or more species or natural communities identified in the Wisconsin wildlife action plan.

(g) Proposals that provide cost sharing.

History: CR 05-071: cr. Register February 2006 No. 602, eff. 3-1-06; CR 08-014: am. (1) and (2) (intro.), cr. (3) Register September 2008 No. 633, eff. 10-1-08.

NR 58.36 Grant calculation. The LIP grant under this subchapter shall be 75% or less of the actual eligible costs as provided in s. NR 58.05.

History: CR 05-071: cr. Register February 2006 No. 602, eff. 3-1-06; CR 08-014: am. Register September 2008 No. 633, eff. 10-1-08.

NR 58.37 Grant awards. No LIP award may exceed \$25,000.

History: CR 05-071: cr. Register February 2006 No. 602, eff. 3-1-06; CR 08-014: am. Register September 2008 No. 633, eff. 10-1-08.

NR 58.38 Grant conditions. In addition to the conditions listed in s. NR 58.06, all of the following grant conditions apply to program grants:

(1) DURATION. The grant period may not exceed 3 years.

(2) PUBLICATIONS. The grantee shall do all of the following:

(a) Provide the department with one copy of all publications and news releases which result from the project grant.

(b) Include in all publications and news releases which result from the project grant acknowledgement of the grant program administered by the department as a source of funding for the project.

(3) DATA AVAILABILITY. The grantee shall make all data requested by the grant program available for incorporation into the natural heritage inventory and the Wisconsin EcoAtlas.

(4) SITE VISIT. The grantee shall allow department personnel to visit the project site at reasonable times with prior notice.

History: CR 05-071: cr. Register February 2006 No. 602, eff. 3-1-06; CR 08-014: renum. to (intro.) and am., cr. (1) to (4) Register September 2008 No. 633, eff. 10-1-08.