

Chapter NR 190

LAKE MANAGEMENT PLANNING GRANTS

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NR 190.01 Purpose. The purpose of this chapter is to establish procedures for implementing a lake management planning grant program as provided for in s. 281.68, Stats. Grants made under this program will assist lake planning projects. They will assist local organizations by helping to provide information on the quality of water in lakes, by improving water quality assessment and planning, by increasing local understanding of the causes of lake problems, and by aiding in the selection of activities to abate pollution of lakes. This grant program is intended to provide support and guidance to local organizations who are interested in helping to manage and protect lakes and who will often have limited resources and organization capabilities to do so.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; renum. from NR 119.01, Register, June, 1995, No. 474, eff. 7-1-95; am. Register, April, 1997, No. 496, eff. 5-1-97.

NR 190.02 Applicability. This chapter applies to all counties, cities, townships, villages, qualified lake associations, public inland lake protection and rehabilitation districts, town sanitary districts and other local governmental units as defined in s. 66.299 (1) (a), Stats., and qualified nonprofit conservation organizations as defined in s. 23.0955 (1), Stats., that are established for the purposes of lake management, applying for financial assistance under s. 281.68, Stats., for a planning project for a public inland lake.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; renum. from NR 119.02 and am., Register, June, 1995, No. 474, eff. 7-1-95; am., Register, April, 1997, No. 496, eff. 5-1-97.

NR 190.03 Definitions. The following definitions are applicable to terms used in this chapter:

(1) Department means the Wisconsin department of natural resources.

(2) Grant period means the time period stated in the grant agreement during which the grant recipient is eligible to expend program grant funds for a project.

(3) Local share means that portion of the cost of the project other than state funds administered by the department.

(4) Management unit means a county, township, village, city, public inland lake protection and rehabilitation district or qualified lake association, as defined in s. 281.68 (1), Stats.

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

(6) Planning project means a specific lake data acquisition, assessment or evaluation activity to provide information on the existing or expected future quality of water in public inland lakes or watershed conditions or activities that may affect the quality of water in public inland lakes.

(7) Planning project priority list means a ranking by the department of lake planning projects in the order of their scheduled receipt of funds.

(8) Public inland lake means a lake, reservoir or flowage, or millpond, or portion thereof, within the boundaries of the state that is presently accessible to the public by contiguous public lands or

easements giving public access or which has been listed by the department as a public inland lake in Wisconsin Lakes, Pub. 7-3600 (81).

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; (1) to (4) and (6) to (8) renum. from NR 119.03 and am. (3) and (4), cr. (5), Register, June, 1995, No. 474, eff. 7-1-95; am. (4), Register, April, 1997, No. 496, eff. 5-1-97.

NR 190.04 Eligible activities. Activities eligible for funding under this section include:

(1) Acquisition of new or updated, physical, chemical and biological information within a lake or surface water or groundwater which may be a tributary to a lake.

(2) Definition of a lake's watershed boundaries and sub-boundaries.

(3) Descriptions and mapping of existing and potential land conditions, activities and uses within a lake watershed that may affect the water quality of the lake.

(4) Definition of existing governmental jurisdictional boundaries and zoning ordinances, or development of new governmental jurisdictional boundaries and zoning ordinances related to the control of pollution sources and evaluations of the effectiveness of land use pollution control ordinances.

(5) Acquisition of sociological information such as census data and lake use information that is necessary to the development of a long-term lake use plan.

(6) The analysis, evaluation, reporting and dissemination of information.

(7) The development of alternative management strategies, plans, and specific project designs necessary to identify appropriate lake protection or improvement projects.

(8) The above activities may apply to groups of lakes particularly for the purpose of coordinating and organizing regional and countywide lake organization, education, monitoring, planning and protection.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; renum. from NR 119.04, cr. (8), Register, June, 1995, No. 474, eff. 7-1-95.

NR 190.05 General provisions. (1) Accounting for all planning project funds shall be in conformance with generally accepted accounting principles and practices, and shall be recorded by the grantee in a separate account. Supporting records of grant expenditures shall be maintained in sufficient detail to show that grant funds were used for the purpose for which the grant was made. All financial records, including invoices and canceled checks, that support all planning project costs claimed by the grant recipient shall be kept and made available for inspection for 3 years after final payment.

(2) The grant recipient shall submit to the department a claim for payment on forms provided by the department within 3 months after the planning project ending date. All costs claimed for payment shall be documented and shall be consistent with the grant agreement relative to expenditures being made within the grant period, within the scope of work, and within estimated costs. The grant recipient may request, for good cause, a grant agreement amendment for expenditures in excess of those identified as estimated costs in the grant agreement.

(3) All of the grant recipient's records pertaining to the planning project are subject to audit. Claims made for payment may be adjusted by audit.

(4) Except for planning projects conducted by the U.S. geological survey, all water tests which require laboratory analyses and which are part of the planning project shall be analyzed by a laboratory which has been selected by the department.

(5) Data and information acquired as part of the planning project shall be reported to the department in a format specified by the department in the grant agreement.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; renum. from NR 119.05, Register, June, 1995, No. 474, eff. 7-1-95.

NR 190.06 Applications. (1) Applications from management units for funding of planning projects shall be made on forms provided by the department and shall be submitted to the district director for the district in which the planning project is located.

Note: The DNR district headquarters are located at:

1. Southeast — 2300 N. Dr. Martin Luther King Jr. Dr., Box 12436, Milwaukee 53212
2. Southern — 3911 Fish Hatchery Road, Fitchburg 53711
3. Lake Michigan — 1125 N. Military Ave., Box 10448, Green Bay 54307
4. North Central — 107 Sutliff Ave., Box 818, Rhinelander 54501
5. Western — 1300 W. Clairmont Ave., Call Box 4001, Eau Claire 54702
6. Northwest — Hwy. 70 West, Box 309, Spooner 54801

(2) The application shall include the following information:

(a) A description of the planning project including a description of how the results of the planning project will be disseminated and made available for public use.

(b) A detailed, categorical estimate of the cost of the planning project and the length of the project period.

(c) A listing of other management units presently organized around the lake and identification of the existing and proposed accessibility of the lake to the general public.

(d) The name of the representative of the applying management unit authorized to sign forms or claims and, if different, the name of the person who will be the contact person for this planning project.

(e) An attached resolution officially adopted by the management unit requesting the planning project grant.

(3) If the sponsor is a nonprofit conservation organization, the sponsor shall provide evidence that the organization meets the requirements in s. 23.0955 (1), Stats.

(4) The department shall review the application for completeness and may return the application with a request for more detailed information. The application is not considered complete until such additional information requested by the department has been received.

(5) Planning project applications shall be received by the department by February 1 of each year to be eligible for grant awards made by April 1 under s. NR 190.09 and by August 1 of each year to be eligible for grant awards made by October 1 of each year under s. NR 190.09.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; (1), (2), (4) and (5) renum. from NR 119.06, cr. (3), Register, June, 1995, No. 474, eff. 7-1-95; r. and recr. (3), Register, April, 1997, No. 496, eff. 5-1-97.

NR 190.07 Determination of planning project eligibility. (1) Following receipt of the application, the department shall make a determination of planning project eligibility. The department may accept the application and include the project in the priority list developed under s. NR 190.08, or deny the request for funding based on consideration of the factors identified in s. 281.68 (1) or (3), Stats.

(2) The total state share of the cost of a planning project for one lake may not exceed \$10,000.

(3) The cumulative state share of the cost of planning projects for one lake may not exceed \$100,000.

(4) The department shall state the basis for determination of ineligibility in writing to the affected management unit.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; (1) and (2) renum. from 119.07 (1) and (2) and am. r. (3), renum. 119.07 (4) and (5) to be 190.07 (3) and (4), and am. (3), Register, June, 1995, No. 474, eff. 7-1-95; am. (1), (3), Register, April, 1997, No. 496, eff. 5-1-97.

NR 190.08 Priorities. (1) A planning project priority list shall be prepared or updated by the department by March 1 and September 1 of each year. Planning projects to be included in the planning project priority list will be those planning projects previously accepted under s. NR 190.07 but which were not funded because of lack of funds and new applications which have been received and accepted by the department under s. NR 190.07.

(2) Priorities shall be set on a statewide basis.

(3) Applications for lakes which meet the minimum boating access standards of s. NR 1.91 (4) (d) or where the department determines, pursuant to s. NR 1.91 (4) (b), that existing facilities are sufficient to meet existing public demand for access, shall receive a first priority.

(4) When developing a priority list, the department shall rank all applications according to the total score received based upon the following point system:

(a) The degree to which the project provides a holistic set of alternatives to assist local decision making or formation of a strategy to enhance or maintain a lake's quality. When ranking applications, scores shall be assigned as follows:

1. No effort towards development of a comprehensive lake management plan — 0 points.

2. Provides one distinct component of a comprehensive lake management plan such as water quality data base, watershed inventory, aquatic plant survey or sociological survey — 1 point.

3. Provides multiple components of a comprehensive lake management plan or conducts comprehensive sociological survey and activities to identify lake management objectives and identify comprehensive lake management goals — 2 points.

4. Develops a comprehensive lake management plan or is being used as matching funds to participate in the U.S. environmental protection agency clean lakes program — 3 points.

(b) The degree to which the planning project will enhance knowledge and understanding of a lake's water quality. When ranking applications, scores shall be assigned as follows:

1. No water quality monitoring or less effort than described in subd. 2. — 0 points.

2. Ambient lakes water chemistry protocol for summer months plus weekly secchi depth monitoring or comprehensive assessment in an aquatic ecosystem component — 1 point.

3. Ambient lakes water chemistry protocol or more than one comprehensive assessment in the other components of the aquatic ecosystem such as phytoplankton and zooplankton, aquatic plant community, fish community or sediment monitoring — 2 points.

4. Extensive aquatic ecosystem evaluation monitoring protocol similar to U.S. environmental protection agency phase I diagnostic and feasibility study. Ambient lakes protocol where no previous water quality data has been collected in the last 15 years of existing water quality data is not comparable with ambient lakes protocol — 3 points.

(c) The degree to which the planning project will enhance knowledge and understanding of a lake's watershed conditions that affect or have potential to affect a lake's water quality. When ranking applications, scores shall be assigned as follows:

1. No watershed conditions — 0 points.

2. Delineate watershed boundary, map land uses and associated acreage, and estimate annual phosphorous load using runoff coefficients — 1 point.

3. Delineate watershed boundary, map land uses and associated acreage, estimate annual phosphorous load using runoff coefficients, identify surface runoff patterns and delineate

environmentally sensitive areas in the watershed such as wetlands and steep slopes; or delineate watershed boundary, map land uses and associated acreage, and estimate annual phosphorous load using runoff coefficients when no previous watershed land use information exists – 2 points.

4. Determine annual estimated nutrient or sediment loadings using USGS gauging station or equivalent monitoring effort or conduct watershed inventory using department nonpoint source program watershed inventory techniques and protocol – 3 points.

(d) The degree to which the proposed planning project enhances local understanding of the lake's water quality, potential uses and factors which affect a lake's water quality. When ranking applications, scores shall be assigned as follows:

1. No effort for public involvement – 0 points.

2. Issue a news release and mail summary report to all lake management organization members – 1 point.

3. Issue a news release and mail summary report to all lake management organization members plus conduct a public informational meeting presenting completed project results or develop semi-annual newsletter for lake related information – 2 points.

4. In addition to subd. 3., hold an additional public meeting prior to project start-up presenting goals, objectives, etc. and issue a news release about completed projects results via a second media – 3 points.

(e) The availability of public access to, and public use of, the lake. When ranking applications, scores shall be assigned as follows:

1. Inadequate public access as defined in s. NR 1.91 (4) – 0 points.

2. Public access planning is part of the planning project application or the applicant can demonstrate to the department that progress is being made towards minimum public access as defined in s. NR 1.91 (4) – 1 point.

3. Minimum public access as defined in s. NR 1.91 (4) – 2 points.

4. More public access than the minimum defined in s. NR 1.91 (4) – 3 points.

5. More public access than the minimum defined in s. NR 1.91 (4) and significant portion of the shoreline in public ownership or extensive public use by non-riparian users – 4 points.

(f) The degree to which the proposed planning project complements other lake management efforts or other local community funds for the project. When ranking applications, scores shall be assigned as follows:

1. Project objectives do not consider any other ongoing lake management activities – 0 points.

2. Project only considers other lake management efforts within applying management unit – 1 point.

3. Project considers all lake management activities among all lake management units and other local interest groups – 2 points.

4. Project considers all lake management activities among all lake management units, other local interest groups and all lake management activities within the department, county agencies and federal agencies – 3 points.

(g) The level of support for the planning project from other affected management units. When ranking applications, scores shall be assigned as follows:

1. No indication of support from other management units – 0 points.

2. Letters of support from one-half of other eligible management units – 1 point.

3. Letters of support from all eligible management units – 2 points.

4. Letters of support from all eligible management units and significant financial support from other eligible management unit or other local interest group, civic organization or sportsman's club – 3 points.

(h) The importance of the information obtained from a planning project to the state as identified in areawide water quality management plans developed under ch. NR 121. When ranking applications, scores shall be assigned as follows:

1. No relationship to a department basin plan – 0 points.

2. Provides significant information towards development of the lakes element of a department basin plan at the time of the next plan update – 1 point.

3. Implementation of specific monitoring recommendations from the basin plan – 2 points.

4. Implementation of specific monitoring recommendations from the basin plan and implementation of other plan recommendations or completion of a comprehensive lake management plan which will be amended to the basin plan at the time of the next update – 3 points.

(i) When ranking applications, assign 3 points to eligible first time projects for a lake.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; renum. from 119.08, r. (3), cr. (3) and (4), Register, June, 1995, No. 474, eff. 7-1-95; am. (3), Register, April, 1997, No. 496, eff. 5-1-97.

NR 190.09 Grant awards. (1) The department shall issue grant awards based upon the planning project priority list developed under s. NR 190.08. Grant awards shall be made by April 1 and October 1 of each year.

(2) The grant award may not exceed the state share of the estimated costs of the planning project as set out in the grant application.

(3) The state share of the planning project cost may not be greater than 75% of the eligible planning project costs.

(4) The local share of the planning project cost may not be less than 25% of the eligible planning project costs.

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

(a) All sources of local share donation 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.

(6) All planning projects shall have as an element a final report that is suitable for use by the general public.

(7) A grant awarded under this section may be terminated by the department for violation of any term or condition of the grant agreement.

(8) No grant award may be made to an applicant for a capital improvement project.

(9) Any grant provided for funding of a planning project which includes acquisition of physical or chemical data may be conditioned upon the grant recipient being required to implement a quality control and quality assurance plan approved by the department.

(10) The department may distribute up to 75% of the state share of the planning project cost based upon the estimated cost

to the grant recipient following acceptance of the grant agreement by the applicant.

(11) The department shall withhold 25% of the state share for a final payment and shall withhold final payment until it has made a determination that the planning project and any required audits have been satisfactorily completed.

(12) If the department finds that the planning project has not been satisfactorily completed by the end of the grant period, the department may seek reimbursement of the state share previously distributed to the grant recipient.

History: Cr. Register, October, 1990, No. 418, eff. 11-1-90; (1) to (5) renum.

from 119.09, r. (5), (6) to (12) renum. from 119.07 (7) to (13), Register, June, 1995, No. 474, eff. 7-1-95; r. and recr. (5), Register, February, 1996, No. 482, eff. 3-1-96.

NR 190.10 Variances. The department may approve in writing a variance from a requirement of this chapter upon the written request of a sponsor 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 and circumstances beyond the control of the sponsor. The department may not grant variances from statutory requirements.

History: Cr. Register, June, 1995, No. 474, eff. 7-1-95.