

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

The Wisconsin Natural Resources Board proposes an order to **repeal** NR 190, NR 191, NR 192, NR 195 and NR 198; to **amend** NR 1.91 (2) (d), 20.40 (2) (a), and 150.20 (2) (a) 21.; and to **create** NR 193 relating to the administration of cost-sharing grant programs for lake and river planning, monitoring, and protection, and aquatic invasive species.

WY-18-15

Analysis Prepared by the Department of Natural Resources

1. Statute Interpreted: ss. 281.68, 281.69, 281.70, and 23.22 (2) (c), Stats.

2. Statutory Authority: ss. 281.68, 281.69, 281.70, 23.22 (2) (c), and 227.11 (2) (a), Stats.

3. Explanation of Agency Authority: This order implements s. 281.68, Stats., which directs the department to promulgate rules to establish and administer a cost-sharing program to award grants to eligible recipients for lake management planning projects, projects to provide information and education on the use of lakes and natural lake ecosystems and on the quality of water in lakes and the quality of natural lake ecosystems, and to award contracts to create and support a statewide lake monitoring and protection network. The rule also establishes a procedure to determine eligible activities and participants in the statewide lake monitoring and protection network, defines minimum and maximum membership fees for qualified lake associations, and allows the department to approve lake management plan recommendations for funding under a lake management grant as authorized under s. 281.69, Stats.

This order implements s. 281.69, Stats., which directs the department to promulgate rules to establish and administer a cost-sharing program to award grants to eligible recipients for lake management projects that improve or protect the quality of water in lakes or the quality of natural lake ecosystems, and for lake classification projects that will classify lakes by use and implement protection activities based on their classification. The rule also allows the department to award contracts for lake classification technical assistance. Section 281.69, Stats. also directs the department to promulgate rules to administer and determine eligible recipients and activities for lake management projects and lake classification projects.

This order implements s. 281.70, Stats., which directs the department to establish and administer a cost-sharing program to award grants to eligible recipients for river planning projects and river management projects. The rule designates eligible activities for planning, management and education, and the types of natural riverine ecosystems that are eligible for funding, and allows the department to approve river management plan recommendations for funding under s. 281.70, Stats.

This order implements s. 23.22 (2) (c), Stats., which directs the department to promulgate rules to establish a procedure to award cost-sharing grants to control invasive species. The rule establishes the criteria for determining eligible projects and eligible public and private grant recipients, allowing cash and non-cash contributions as eligible cost share, and considers the recommendations of the Invasive Species Council.

The department has authority to promulgate rules under s. 227.11 (2) (a), Stats., to administer the statutory requirements in ss. 281.68, 281.69, 281.70, 281.71, 281.72, and 23.22 (2) (c), Stats.

4. Related Statutes or Rules:

Section 281.68 (3), Stats., directs the department to develop rules to administer a lake management planning grant and contract program to provide information and education on the use of lakes and lake ecosystems, water and ecosystem quality, water quality assessment, and to support the development of plans to prevent pollution and protect and improve lakes.

Section 281.69 (3), Stats., directs the department to develop rules for a lake management grant program that will improve or protect lakes and lake ecosystems, classify lakes by use, and implement protection activities for the lakes based on their classification.

Section 281.70 (2), Stats., directs the department to develop rules for a river protection grant program to provide grants for planning and management projects to protect or improve the ways rivers are used, the quality of water in rivers and riverine ecosystems, and/or the fish populations, aquatic life or fish habitat in rivers.

Section 23.22 (2) (c), Stats., directs the department to develop rules for a grant program to control invasive species that specifically includes education and inspection activities at boat landings.

Section NR 103.03, Wis. Adm. Code, connects the quality of waters of the state with wetlands. This rule outlines the set of water quality related functional values or uses of wetlands that shall be protected in the interest of protecting, preserving, restoring and enhancing water quality. Functional values include discharge of groundwater to a wetland, recharge of groundwater through a wetland, storm and flood water storage, hydrologic functions, filtration or storage of sediments, nutrients and toxic sediments, shoreline protection, habitat, and scientific and natural scenic beauty.

Section NR 1.95 (3) (b), Wis. Adm. Code, identifies wetland values as complex, and breaks them into several categories, including ‘biological functions’ related to habitat, biodiversity, breeding, and feeding, ‘watershed functions’ related to physio-chemical functions like maintenance of hydrologic patterns and physio-chemical processes necessary for ecosystem stability, and ‘recreational, cultural and economic values’ related directly to activities like hunting, canoeing, culture and directly and indirectly related to water quality, habitat provision, culture and economics.

Chapter NR 115, Wis. Adm. Code, outlines Wisconsin’s shoreland protection program, where shoreland subdivision and zoning regulations are required to “further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structure and land uses; and reserve shore cover and natural beauty.” Chapter NR 115, Wis. Adm. Code, outlines Wisconsin’s shoreland protection program, where shoreland subdivision and zoning regulations are required to “further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structure and land uses; and reserve shore cover and natural beauty.” Section 59.692, Stats., requires counties to effect the purposes of s. 281.31, Stats., and to promote the public health, safety and general welfare by adopting zoning regulations for the protection of all shorelands in unincorporated areas that meet shoreland zoning standards promulgated by the department.

Sections NR 1.91 (4) and 1.91 (6), Wis. Adm. Code, outline public boating access standards and alternative public boating access standards for resource enhancement services. Resource enhancement services require that the public be provided with reasonable public boating access, stipulating that the department may provide protection services for pollution abatement or prevention and natural resources protection even if public access is not available.

Section NR 50.05, Wis. Adm. Code, details the administration of outdoor recreation program grants and state aids, including s. NR 50.05(8), stating that the acquisition of real property shall be in accordance with state and federal guidelines for preparation of appraisals and relocation assistance.

Chapter NR 149, Wis. Adm. Code, outlines the requirements for the administration of the laboratory certification program by the department. The rule created by this order requires laboratory work be conducted by a state-certified laboratory.

Chapters NR 153 and 154, Wis. Adm. Code, identify grant programs, best management practices, eligibility and cost-share procedures for lake, river and watershed projects addressing non-point source pollution.

General provisions and administrative procedures are similar to the procedures specified in the rules repealed by this order, chs. NR 190, 191, 192, 195, and 198, Wis. Adm. Code. The creation of ch. NR 193, Wis. Adm. Code, will allow the department to streamline procedures and align policies to unite the existing subprograms and provide consistency in guidance and administration.

5. Plain Language Analysis:

The surface water grant program provides financial assistance to eligible recipients to improve and protect water quality and the quality of lake and river ecosystems, and to prevent and control aquatic invasive species. The grant program has evolved incrementally over 26 years and is currently governed by five separate but related administrative rules and two state statutes. Annually, the surface water grant program provides over \$6 million dollars to lake and river groups, other nonprofit organizations, and local units of government. Funding comes from the Water Resources Account of the Conservation Fund (motor boat gas tax revenues). The Bureaus of Water Quality and Community Financial Assistance propose to repeal the five related rules that govern the surface water grant program and recreate one consolidated rule chapter.

The proposed ch. NR 193 will unite the program under a consistent set of procedures and policies, improving customer service and satisfaction and administrative consistency and efficiency. The proposed rule will also update the program to employ contemporary management practices, enhance project performance and grantee accountability, and ultimately support better and more cost-effective environmental outcomes that serve local needs and advance department management objectives for state surface water.

Grants and contracts under existing administrative codes provide state cost-sharing assistance to nonprofit organizations and governmental units for two primary activities: (1) Planning projects to help communities understand the condition of aquatic ecosystems and watersheds, collect data, conduct studies, and develop management plans, and (2) Management projects to protect and improve water quality and aquatic habitat and prevent and control aquatic invasive species.

Annually, around 40% of the available funding is allocated to planning activities on lakes, rivers and for aquatic invasive species, while around 60% is dedicated to management. Under the current planning program, awards for aquatic invasive species range to \$150,000 per project, lake planning projects may be awarded up to \$25,000 per project (\$100,000 per lake), river planning projects are capped at \$10,000, and county lake classification projects are awarded up to \$50,000. Under the current program for management, aquatic invasive species control projects and lake management plan implementation projects are eligible to request up to \$200,000. Shoreline and wetland restoration projects are eligible for up to \$100,000. River management projects may be awarded up to \$50,000. The Healthy Lakes program awards \$1,000 per best management practice installed, not to exceed \$25,000 per project. Land

acquisition grants may be requested for up to \$50,000 for rivers and \$200,000 for lakes. Appropriations for all three grant programs come from the Water Resources Account of the Conservation Fund (funded by motor boat gas tax revenues). The proposed consolidated rule will be the first fully comprehensive review and update of these rules.

The recreated rule also will update citations, references, and notes to appropriate statutes and administrative codes and include other housekeeping changes. Some of the proposed changes will implement recommendations from three Lean Six Sigma projects the department completed to streamline the application process and create administrative efficiencies.

6. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations:

There is no direct comparison with federal regulation. These are non-regulatory programs. Proposed changes are intended to assist the department in implementing the goals of the federal Clean Water Act and U.S. Fish and Wildlife Service (USFWS) aquatic invasive species regulations. Under plans filed with the U.S. Environmental Protection Agency and USFWS, federal funding received by the department may be awarded through these grants and state funds awarded through these programs may count as state match to federal funds the department receives.

This rule references best management practices outlined in the U.S.D.A. Natural Resources Conservation Service practice standards for Wisconsin.

7. Comparison with Similar Rules in Adjacent States:

Neighboring states provide cost-sharing grants using state and federal funds to support activities that are substantially like those eligible for financial assistance under this proposed rule. Like Wisconsin, each of the neighboring states administers a section 319 program funded by the Environmental Protection Service to address nonpoint source pollution.

Minnesota

The Minnesota Department of Natural Resources offers competitive grants to help qualified organizations carry out projects to solve issues that impact Lake Superior and its coast. Projects focus on protecting and restoring habitat and water quality, sustainable development, education and providing public access. Grants awarded in the annual category range from \$10,000 to \$100,000, and short-term grants range from \$2,500 to \$10,000. \$12.5 million has been awarded since 2001.

Minnesota supports work on invasive species through state-funded grant programs. They provide assistance for aquatic invasive species education, planning and prevention, for aquatic invasive species control, and for watercraft inspections. Due to funding limitations, Minnesota did not accept applications in 2018. Additional funding amounting to \$10 million annually is provided directly to counties for aquatic invasive species prevention programs. Counties are required by statute to establish and adopt a plan for how they will use the funding on an annual basis.

Minnesota administers a grant program to assist county governments with stream bank maintenance. Activities include debris and vegetation removal, bank stabilization, and snagging and sedimentation reduction. This cost-sharing program usually awards between \$5,000 and \$15,000 per project. The program was created in 1973; it is not currently funded but remains in place in case funding is restored in the future.

Historically, Minnesota also ran a wild and scenic river land acquisition program to further the Wild and Scenic River statutes and rules. The program was last funded for payments in 1989.

Michigan

The Michigan Department of Environmental Quality (DEQ) manages a Coastal Management Grant program. Awards to eligible applicants are intended to support coastal management planning, to protect and restore coastal and estuarine areas, to protect high quality areas, rare and threatened species and natural communities, to fulfill recreational needs, to carry out management plans, and to acquire and manage land. Projects must be held in public ownership and provide conservation in perpetuity, provide public access, and be consistent with resource protection. The maximum for a single grant award is \$1.5 million. For planning and construction projects, awards range from \$10,000 to \$100,000.

Michigan also provides support for local governments and organizations to implement water quality monitoring projects throughout the state. These grants are currently unavailable due to lack of funding. Local governments, schools, municipalities, planning agencies and other eligible applicants also receive cost-shared state funding to support a volunteer cleanup program for rivers, streams, and creeks.

The Clean Michigan Initiative provides state funding to implement physical improvements in approved watershed management plans intended to restore and protect waters. Eligible activities include best management practices, project evaluation, and load reduction modelling. A DEQ-approved watershed plan is required to be eligible for the funds. Between \$1 and \$2 million in funding is typically available per year. There is no financial cap on proposals, but projects must cost at least \$25,000.

Michigan also supports a set of storm water and infrastructure grant programs. The Source Water Protection program provides matching funds to public water supply systems to develop and implement projects to prevent drinking water sources from contamination. \$500,000 is available annually. The State Revolving Fund provides low-interest loans for water pollution reduction projects, including wastewater treatment system improvements, storm water treatment projects, and nonpoint source pollution management projects. Funding levels per year depend on federal funding. The Strategic Water Quality Initiatives Fund provides low-interest loans for water pollution reduction, including upgrade and replacement of failing septic systems or for the removal of groundwater or storm water from sanitary or combined sewer leads. Between \$10 and \$20 million are available annually.

Michigan's Invasive species grant program addresses prevention, detection, eradication and control for terrestrial and aquatic invasive species. Minimum grant awards are \$25,000 with maximum amounts between \$60,000 and \$400,000 depending on the type of project. \$3.6 million was available for the 2017 grant cycle.

Iowa

The Iowa DNR provides cost-sharing grants to county conservation boards for land acquisition and fish habitat restoration. Land shall be controlled by the county applicant. Eligible activities include aeration, aquatic plant projects, construction of sediment retention basins, fish ladder construction, dam repair and removal, and land acquisition. In 2019, \$70,000 will be available.

Dam mitigation projects are also eligible for state financial assistance. A maximum of \$50,000 per project may be given to reduce the damage and impacts of low head dams in a way that demonstrates beneficial effects on stream health, fish or mussel migration and habitat, aesthetics, and recreational value. This year, the program will grant \$200,000.

Iowa's Land and Water Conservation Fund is a highly competitive program that awards federal funds to counties for cost-sharing grants that improve outdoor recreation area development and acquisition. Similarly, the city parks and open spaces grant program provides funding for open spaces. The Water Recreation Access cost-sharing program supports land acquisition and development of water access points and boat launches. The conservation education program provides around \$350,000 per year for conservation and stewardship education. Funding for these programs comes through the resource enhancement and protection (REAP) Act of 1989 and was over \$2 million in 2017.

Illinois

The Illinois Department of Natural Resources administers a federally-funded Land and Water Conservation Fund and a state-funded Open Space Lands Acquisition and Development program that provides cost-shared assistance to local units of government to carry out projects that conserve land and water. Eligible activities include the acquisition of land for public parks and conservation purposes, and development activities that are eligible for funding include construction of water quality basins, habitat restoration, wetland restoration and nature parks. Land acquisition for open space and recreation includes the ability to purchase land for conservation purposes, including the protection of floodplains, wetlands, natural areas, wildlife habitat and unique geologic or biologic features. Grant awards range up to \$750,000 for acquisition projects and \$400,000 for development projects. Illinois' Wildlife Fund Grant program provides support for non-profit organizations to preserve, protect and acquire or manage habitat, including flyways and other waterfowl areas.

Illinois also runs a coastal management program that awards local government units, educational institutions, and other non-profits funds for coastal education and outreach, land acquisition, resource protection, habitat restoration, invasive species management, access, and low-cost construction projects. Awards often total over \$1 million per year.

8. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen:

None.

9. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report:

None.

10. Effect on Small Business (initial regulatory flexibility analysis):

Small business is not directly affected by the rule because grants are issued only to governmental units, educational institutions, and non-profit surface water management organizations. Therefore, under s. 227.114, Stats., an initial regulatory flexibility analysis is not required. Environmental consultants and companies involved in surface water planning, surface water management, and aquatic invasive species control should benefit from a consolidated and streamlined program. Changes in the funding caps for grant programs and changes in the timing of the grant cycle may affect the timing and activity cycles of their work. The addition of quality assurance requirements in s. NR 193.17 will mean that, for some projects, a grantee must adhere to minimum training and qualifications. Consultants or grantees may incur costs for staff time to attend required trainings but registration costs will be minimal or free.

11. Agency Contact Person: Carroll Schaal. 101 S Webster St. Madison WI, 53703
Carroll.Schaal@wisconsin.gov. (608) 261-6423

12. Place where comments are to be submitted and deadline for submission:

Written comments may be submitted at the public hearings, by mail or email to:

Alison Mikulyuk
Department of Natural Resources
101 S Webster St. Madison WI, 53703
608-264-8947
Alison.Mikulyuk@Wisconsin.gov

Written comments may also be submitted to the Department at
DNRAdministrativeRulesComments@wisconsin.gov.

A public hearing will be held by videoconference on July 10, 2019 at 10 a.m. at the following locations:

- Madison – UW-Extension, Pyle Center, Room 235, 702 Langdon Street, 53706
- Eau Claire – UW-Eau Claire, Centennial Hall, Room 2904, 1698 Park Avenue, 54702
- Green Bay – UW-Green Bay, Instructional Services Building, Room 1034, 2420 Nicolet Drive, 54311
- Milwaukee – UW-Milwaukee, Kenwood IRC Building, Room TBD, 3135 N Maryland Avenue, 53211
- Rhinelander – Nicolet Area Technical College, Room TBD, 5364 College Drive, 54501
- Superior – UW-Superior, Swenson Hall, Room 2004, 1610 Weeks Avenue, 54880

The deadline for submitting public comments is July 24, 2019.

SECTION 1. NR 1.91 (2) (d) is amended to read:

NR 1.91 (2) (d) "Natural resources enhancement services" means funding or activities that increase the recreational or environmental values of a waterway. These services include ~~but are not limited to~~ fish stocking, removal or other fish population management, habitat development, financial assistance for aquatic plant harvesting and ~~lake restoration grants as defined in s. NR 191.03 (5)~~ any other services that increase the recreational or environmental values of a waterway and are supported with a grant awarded under ch. NR 193.

SECTION 2. NR 20.40 (2) (a) is amended to read:

NR 20.40 (2) (a) "Aquatic invasive species" has the meaning in s. NR ~~198.12 (1)~~ 193.03 (3).

SECTION 3. NR 150.20 (2) (a) 21. is amended to read:

NR 150.20 (2) (a) 21. Approvals of aquatic plant management plans under s. NR 109.09 and ~~lake surface water management plans~~ plan recommendations under s. NR ~~191.45~~ 193.53.

SECTION 4. NR 190 is repealed.

SECTION 5. NR 191 is repealed.

SECTION 6. NR 192 is repealed.

SECTION 7. NR 193 is created to read:

**CHAPTER NR 193
SURFACE WATER GRANT PROGRAM
SUBCHAPTER I – GENERAL PROVISIONS**

NR 193.01 Purpose and authority. This chapter establishes procedures for awarding cost-sharing grants to public and private entities to improve and protect the waters of Wisconsin. Rules under this chapter outline grant programs to support aquatic invasive species control and prevention as provided for in s. 23.22 (2) (c), Stats., lake management planning as provided for in s. 281.68, Stats., lake management and lake classification pursuant to s. 281.69, Stats., river planning and management as provided for in s. 281.70, Stats., and a lake monitoring and protection contract program pursuant to s. 281.68 (3) (bg), Stats.

NR 193.02 Applicability. (1) This chapter outlines a grant program that provides financial assistance for surface water planning and management projects benefitting the state of Wisconsin. Eligible grant recipients include counties, cities, towns, villages, and other local governmental units; tribal governing bodies; town sanitary districts; public inland lake protection and rehabilitation districts; nonprofit conservation organizations; qualified surface water management organizations; qualified school districts; accredited colleges; accredited universities and technical schools; qualified lake associations; qualified river management organizations; natural resource agencies; and other substantially similar organizations. Substantially similar organizations seeking eligibility for grants awarded under this chapter shall submit a request for a determination of eligibility on a form designated by the department.

(2) Grants awarded under this chapter may be used for education, planning and management projects conducted for the benefit of surface water or aquatic ecosystems. Lake protection funding is available for projects benefitting lakes and lake ecosystems. Lake

management grants that include natural resource enhancement services are available for projects benefitting public inland lakes. River protection funding is available for activities benefitting rivers and riverine ecosystems. Aquatic invasive species grants are available for aquatic invasive species projects conducted on surface waters of the state, including lakes, rivers, streams, wetlands and the Great Lakes.

Note: Applicants may wish to review the Surface Water Grant Program Guidance available on the Surface Water Grant Program webpage.

NR 193.03 Definitions. In this chapter:

(1) “Acquisition costs” means the fair market value of the property as determined by department appraisal guidelines and reasonable costs related to the purchase of the property but limited to the costs of appraisals, legal fees associated with closing up to a maximum DNR cost share of \$1,000, costs of land surveys, title and gap insurance costs, title company closing costs, recording fees, costs of historical and cultural assessments required by the department, costs of environmental inspections, audit costs, and baseline documentation costs required for conservation easements. “Acquisition costs” does not include environmental clean-up costs, brokerage fees paid by the buyer, real estate transfer taxes or any other costs not identified in this subsection.

(2) “Aquatic ecosystem” means a lake ecosystem or riverine ecosystem.

(3) “Aquatic invasive species” means non-indigenous water or wetland-dwelling organisms or their hybrids, cultivars, subspecific taxa, or genetically modified variants whose introduction into aquatic ecosystems causes or is likely to cause adverse economic, recreational, environmental or human health effects, and includes individual specimens, eggs, larvae, seeds, propagules, and any other viable life-stages of such species.

Note: Some aquatic invasive species are legally classified under ch. NR 40 and s. NR 109.07.

(4) “Aquatic invasive species control” means to remove, cut and remove, destroy, suppress, or otherwise prevent the introduction or spread of aquatic invasive species.

(5) “Aquatic life” means aquatic plants, aquatic algae, aquatic invertebrates, aquatic or semi-aquatic vertebrates, or other aquatic organisms or their habitats.

(6) “Capital assets” means a long-term item having a useful life of more than one year and an acquisition cost of \$5,000 or greater, and includes customized equipment where the sum of the components is equal to or in excess of \$5,000.

(7) “Conservation easement” has the meaning given in s. 700.40 (1) (a), Stats.

(8) “Cost containment” means the process of managing the expenses required to complete a project within pre-planned budgetary constraints.

(9) “Department” means the Wisconsin department of natural resources.

(10) “DNR cost share” means the percent of a project’s total cost paid for with grant funds awarded under this chapter.

(11) “Enhancement” means activities conducted to increase one or more beneficial functional values or services of an aquatic ecosystem.

(12) “Equipment” means long-term items having a useful life of more than one year and an acquisition cost of less than \$5,000.

(13) “Final payment” means the last payment issued by the department to the grantee for a grant awarded under this chapter after the project has been completed in accordance with the grant agreement or contract and to the satisfaction of the department.

(14) “Grant advance” means the portion of the grant award paid to the grantee after returning a signed grant agreement and prior to project implementation.

(15) “Grant agreement” means a contract between the grantee and the department detailing the project scope, grant award, grant period, DNR cost share, project products, reimbursement process, and conditions that restrict actions of the grantee during the life of the project and during the operation and maintenance phase once the final payment has been issued by the department.

(16) “Grant award” means the dollar amount awarded to the grantee by the department and available to the grantee for reimbursement of eligible project costs.

(17) “Grantee” means an eligible organization or person that is awarded a grant or contract from the department under this chapter.

(18) “Grantee match” means the dollar amount of the eligible project cost not funded with a grant administered by the department.

(19) “Grant period” means the time period stated in the grant agreement during which the grantee may expend funds for the project.

(20) “Lake” means all or a portion of a lentic body of water, including lakes, ponds, millponds, pools, impoundments, reservoirs and flowages, that are within the boundaries of the state.

(21) “Lake ecosystem” means the lake and all streams, channels, wetlands, groundwater, and lands in the watershed and the terrestrial and aquatic life therein.

(22) “Land management plan” means a management plan approved in writing by the department detailing how a property acquired with funds granted under this chapter shall be managed, maintained and made available to the public.

(23) “Littoral area” means the light-rich shallow-water zone of a lake extending from the ordinary high-water mark to the greatest depth capable of supporting submersed aquatic plants.

(24) “Local governmental unit” has the meaning given in s. 66.0131 (1) (a), Stats.

(25) “Management plan” means a written document that explores management challenges, defines management goals and provides strategic direction for selecting project activities to accomplish them.

Note: Examples of management goals include preventing pollution, protecting surface water quality, protecting the quality of aquatic ecosystems, improving surface water quality, or improving the quality of aquatic ecosystems.

(26) “Mitigation project” means the restoration, enhancement, or creation of wetlands or shoreline habitat to compensate for permitted adverse impacts to other wetlands or shoreline habitats and includes the use of credits from a wetland mitigation bank.

(27) “Natural resource agency” means a state or federal government agency that manages lakes, rivers, streams, wetlands, fish, wildlife, forests, parks, plants, soils, or agricultural lands.

(28) “Natural resources enhancement services” has the meaning given in s. NR 1.91 (2) (d).

(29) “Nonpoint source water pollution” has the meaning given in s. 281.16 (1) (f), Stats.

(30) “Nonprofit conservation organization” has the meaning given in s. 23.0955 (1), Stats.

(31) “Ordinary high water mark” means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics. Where the bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high water mark.

(32) “Partial payment” means reimbursement of eligible project expenses requested by the grantee after any grant advance has been expended on eligible projects costs, including grantee match for the grant advance, and prior to completion of the project.

(33) “Point source” has the meaning given in s. 283.01 (12), Stats.

(34) “Program-approved protocol” means a method or protocol designed to accomplish certain project activities, including monitoring, modelling, assessment, protection, or restoration, and which is approved by the department for use in a project funded by a grant awarded under this chapter.

(35) “Project” means the practices or activities supported in part by grant funds awarded under this chapter.

(36) “Project priority list” means a ranking by the department of eligible projects described in a grant application and submitted during a given grant cycle prior to the application deadline.

(37) “Project scope” means the part of the grant agreement that succinctly describes the extent or range of what the project will accomplish.

(38) “Public inland lake” means a lake, reservoir, flowage, or millpond, or portion thereof that is within the boundaries of the state and that is presently accessible to the public by contiguous public lands or easements giving public access.

(39) “Public inland lake protection and rehabilitation district” means a district described under s. 33.21, Stats.

(40) “Public waterbody” means any lake, pond, stream, creek, drainage way, waterway, wetland, or other area where water naturally flows or drains, or any portion thereof, and that is open to the public for swimming, paddling, canoeing, kayaking, motorized boating, windsailing, fishing, ice fishing, or aesthetic enjoyment.

(41) “Qualified lake association” means a lake association that meets the qualifications under s. 281.68 (3m), Stats., and that charges an annual membership fee of not less than \$5 and not more than \$50.

(42) “Qualified river management organization” means a nonprofit corporation as defined in s. 181.0103 (17), Stats., or a chapter or legal affiliate of a nationally recognized nonprofit organization registered in another state, that meets all of the following conditions:

(a) The organization specifies in its articles of incorporation or bylaws that a substantial purpose of its being incorporated is to support the protection or improvement of one or more rivers or riverine ecosystems for the benefit of the general public or demonstrates that the substantial purpose of its recent past actions was to support the protection or improvement of one or more rivers for the benefit of the general public.

(b) The organization does not limit membership or deny the right of any member or any class of members to vote.

(c) The organization requires payment of an annual membership fee of not less than \$5 and not more than \$50.

(43) “Qualified school district” means a school district that qualifies under s. 281.68 (3m) (c), Stats.

(44) “Qualified surface water management organization” means a nonprofit corporation, a charitable trust or other nonprofit association that is described in section 501 (c) (3) of the Internal Revenue Code that meets all of the following criteria:

(a) The entity is exempt from federal income tax under IRC s. 501 (a) of the internal revenue code.

(b) The organization’s stated purpose or past actions are aligned with the purposes of this chapter.

(c) The entity is registered with the Wisconsin department of financial institutions or if it is located out of state and is not registered with the Wisconsin department of financial institutions, it has an established presence in the state of Wisconsin as determined by the department.

(d) The entity is seeking a grant award for projects primarily benefitting the waters of the state of Wisconsin.

(45) “Resource protection services” means activities pursuant to ss. 281.55, 281.57, 281.65, and 281.695 (5), Stats., and s. NR 1.91 (2) (L) that protect surface water and aquatic ecosystems, including nonpoint source water pollution management, lake planning, and certain lake management actions.

(46) “Restoration” means the enhancement or reestablishment of historic surface water or shoreline habitat conditions and functions, to the maximum extent practicable, at a site where they have been diminished, including the reestablishment of natural hydrology, natural land

contours, native vegetation, aquatic invasive species control, or the replacement of rock or woody cover.

(47) “River” means a lotic waterbody located in or bordering the state and includes rivers, streams, creeks, channels, flowages and impoundments.

(48) “Riverine ecosystem” means a river and all wetlands, groundwater, and lands in the watershed of the river and the terrestrial and aquatic life therein.

(49) “Shoreline habitat” means the area adjacent to both sides of the ordinary high-water mark including the littoral and adjacent upland habitat areas that can provide both water quality and ecosystem benefits to a waterbody.

(50) “Supplies” means short-term items that are consumed during the project, typically within the course of one year.

(51) “Surface water” means surface water, as defined in s. NR 811.02 (66), that lies within or that borders the boundaries of the state.

Note: Surface waters include lakes, rivers, and wetlands.

(52) “Town sanitary district” has the meaning given in s. 60.70 (9), Stats.

(53) “Tribal governing body” means an elected tribal governing body of a federally recognized American Indian tribe or band.

(54) “Waterbody” means a lake, river, wetland, or portion thereof.

(55) “Watercraft” has the meaning given in s. 30.01 (7), Stats.

(56) “Watercraft inspection program” means a department-approved aquatic invasive species prevention program in which volunteer or paid staff conduct watercraft and equipment inspections and educate surface water users on how to prevent the spread of aquatic invasive species.

Note: The department-approved watercraft inspection program is “Clean Boat, Clean Waters.”

(57) “Watershed” means an area of land over which surface water flows and drains to common outlet, defined relative to a specific point in the surface water drainage network and including all land upstream that drains to that point.

(58) “Waters of the state” has the meaning given in s. 281.01 (18), Stats.

(59) “Wetland” has the meaning given in s. 23.32 (1), Stats.

(60) “WisDOT” means the Wisconsin department of transportation.

NR 193.04 Accountability. (1) A grantee shall do all of the following:

(a) Follow generally accepted accounting principles and practices during the implementation of a project funded with a grant awarded under this chapter.

(b) If the grantee receives a grant advance from the department, maintain the grant advance in a separate account. If interest is earned on the account, the grantee shall use that interest for the same purposes for which the department originally awarded the grant.

(c) Document all project costs and maintain documents to support grant expenditures in sufficient detail to show that project costs are consistent with the grant agreement.

(d) Maintain all financial records for six years following the issuance of the final payment, unless longer retention is directed by the department in writing, and make these financial records available to department staff upon request. Financial records to which this paragraph applies include published public notice and bid summaries; records showing volunteer time, donated professional services, supplies and equipment; invoices; canceled checks, bank or credit card statements; documentation regarding the life and depreciation of supplies, equipment, and capital assets purchased with grant funds awarded under this chapter; and any other documents that support project costs claimed by the grantee.

(e) Comply with all applicable state and federal laws and regulations regarding cost containment, bidding, contract awards, wage, and labor rates.

(f) Obtain all regulatory permits and approvals required by federal, state, or local agencies, including water and wetland regulatory permits from the department, prior to implementation of any permitted activity. A grantee shall fully comply with the permits and approvals during implementation of any permitted activity and shall submit a copy of the approved permit to the department with any relevant payment request. The department may not issue a payment if the approved permit is not submitted by the grantee.

(g) Agree to have an annual audit performed on federal funds received from a state or federal agency in accordance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, also known as “Uniform Guidance,” and WI State Single Audit Guidelines issued by Wisconsin department of administration, state controller’s office, if a grantee receives federal or state grant funds totaling at least \$750,000 during the grantee’s fiscal year.

(h) Operate as an independent contractor having sole control and responsibility for directing, supervising, or determining the method, hours worked, and time and manner of any performance under this agreement other than as specifically provided for in this chapter. The department may not exercise control over the selection and dismissal of the grantee’s employees or agents.

(2) The department may conduct an audit of a grantee’s records for a grant award at any time during the project period and for up to six years after the department has issued final payment, unless longer retention is directed by the department in writing. The department may require that the grantee repay any prior payment issued by the department if an audit reveals that costs cannot be substantiated.

(3) Failure of a grantee to comply with one or more terms of the grant agreement issued under this chapter may result in termination of the agreement and the suspension of all obligations of the department. Grant agreements may also be terminated by the department if a grantee fails to make satisfactory progress on activities approved for grant funding, fails to complete the project to the satisfaction of the department, or makes project changes without department approval for a project scope or budget amendment. Upon termination of a grant agreement, the department may require the grantee to reimburse the department for any grant

funds the department deems appropriate. The department shall notify a grantee about its intent to terminate a grant agreement, in writing, and include the reasons for termination. If the compliance failure is determined by the secretary of the department to be due to no fault of the grantee, the amount required to settle at minimum the costs of any irrevocable obligations properly incurred shall be eligible for assistance under this chapter at the department’s discretion.

(4) The grantee may terminate the grant agreement, in writing, at any time prior to the start of the project and before expending any grant funds awarded under this chapter. After the project has been started or grant funds have been expended, a grantee may request to terminate the agreement in writing, subject to approval by the department.

(5) The department may require the grantee to install and enforce an organization code of conduct that lays out expectations and guiding principles for appropriate workplace behavior. The grantee shall implement the code of conduct when dealing with department staff, volunteers, local elected officials, employees, service providers and customers. Should the grantee fail to comply, all obligations of the department under an agreement may be terminated.

NR 193.05 DNR cost-share percentages and maximum grant award amounts. Grants awarded under this chapter cover a percentage of total eligible project costs up to a maximum grant award amount, as outlined in Table 1 for each grant subprogram in this chapter. The grantee shall be responsible for contributing the grantee match as specified in s. NR 193.07 and any project costs that exceed the grant award amount.

**TABLE 1
Surface Water Grant Subprogram Cost Share Table**

This table lists the DNR cost-share percentage, maximum grant award, grantee match, maximum grant advance possible as a percentage of the grant award amount, and lake public access requirements of each subprogram under this chapter.						
Grant Category	Grant Subprogram	DNR Cost Share	Maximum Grant Award	Grantee Match	Maximum Grant Advance	Public Lake Access Required
Education and Planning Grants ^a	Education	67%	\$5,000	33%	75%	No
	Lake Planning		\$25,000			
	River Planning		\$10,000			
	County Lake Grants		\$50,000			
	Watercraft inspection		\$24,000 ^b			Yes
Management	Healthy Lakes & Rivers	75%	\$25,000	25%	25%	

Shoreland Protection		\$100,000				Project-specific
In-water Management		\$100,000				
Wetland Restoration		\$50,000				
Lake Management Plan Implementation		\$200,000		25% not to exceed \$25,000		
River Management Plan Implementation		\$50,000				
Ordinance Development		\$50,000		25%	No	
AIS Early Detection and Response		\$25,000			Project-specific	
AIS Large-scale Population Management		\$150,000		25% not to exceed \$25,000	Yes	
AIS Small-scale Population Management		\$50,000		25%		
AIS Research and Demonstration		\$500,000 ^c		25% not to exceed \$25,000	No	
Lake Fee Simple Land and Easement Acquisition		\$200,000		100% of approved land value at escrow closing	No ^d	
River Fee Simple Land and Easement Acquisition		\$50,000				
Wetland Restoration Incentive	100%	\$10,000	0%	0	No	

^a The maximum amount of combined education and planning grant awards to a lake, river, or grantee may not exceed \$50,000 in one state fiscal year as specified in s.281.68 (2) (a), Stats.

^bThe watercraft inspection program provides \$4,000 for inspection activities carried out on each landing or pair of landings.

^cA maximum of \$500,000 may be awarded annually for projects under this subprogram

^dA grantee acquiring property through title in fee simple or rights to a property via a conservation easement shall ensure that the property provides for public access as provided in s. 281.71, Stats., unless the department determines, and documents in writing, that the property may be closed to public access to protect wild animals, plants or other natural features in accordance with s. 281.71 (1) (c), Stats.

NR 193.06 Eligible and ineligible costs. (1) ELIGIBLE COSTS. The department may reimburse eligible project costs at the DNR cost-share percentage up to the maximum allowable grant award amount if the costs are reasonable and necessary for the project, documented, consistent with the approved application that is part of the grant agreement, directly related to the project, and incurred during the grant period. Eligible costs include any of the following:

(a) *Labor and fringe benefits.* 1. Labor costs incurred by grantee staff, whether existing or new, to carry out project activities identified in the grant agreement. Labor costs shall be based on the grantee's established rate at the time the expense was incurred for staff time in the form of salary, hourly wages, fringe benefits and other items determined to be appropriate by the department.

2. Direct administrative costs, including actual salary or hourly wages and fringe benefits incurred by immediate supervisors and support staff that can be tracked, charged directly to and accounted for by the project. Costs under this subdivision may not exceed 10% of the project grant award amount.

(b) *Supply and services costs.* Costs for items directly related to the implementation of the project and the proportional share of costs for items only partially used for implementation of a project funded with a grant awarded under this chapter, including all of the following:

1. Office supplies, printing, photocopying, and postage.

2. Mileage costs, not to exceed the federal per mile business rate.

3. Reasonable planning, engineering, and design costs necessary to complete a regulatory permit application required to implement a project if the costs are incurred within 12 months prior to the grant application submittal deadline.

4. Fees necessary for federal, state, or local permits required for implementation of the project.

5. A proportional share of costs associated with implementation of the project

Example: Suppose that an approved grant application included costs for annual rental of a multi-function machine for the office. Suppose further than there are 6 staff in that office, each working on different projects. The proportional share of the annual rental of the multi-function machine that can be assigned to a grant awarded under this chapter would be no more than 1/6 of the annual cost.

6. Engineering, landscape architecture design, construction, consulting or other professional services.

7. Sampling, monitoring, resource assessments and other field work and data collection costs.

8. Analyses performed by the Wisconsin State Laboratory of Hygiene or another facility approved in writing by the department.

9. Rental or lease of equipment and facilities.

10. A proportional share of website design and maintenance costs associated with implementation of the project.

11. A proportional share of advertising media costs.

12. A proportional share of the costs of required financial and compliance audits for the project.

13. Training for grantee staff or volunteers that execute project activities.

14. Development, editing and distribution of informational or educational programs and materials, reports, management plans and other project documents and deliverables.

15. Installation of equipment and supplies, limited to the initial cost of installation.

16. Legal costs, including costs associated with the preparation and filing of deed restrictions and other contracts, the review of ordinance language, and other legal costs necessary to carry out a project funded under this chapter as approved by the department.

17. Costs for a department-approved watercraft inspection program, but limited to the following:

a. Time spent by inspectors monitoring landings.

b. Time spent at trainings.

c. Purchase of education and outreach materials from UW-Extension.

d. Labor costs for the coordination and administration a program.

18. Other costs approved in writing by the department.

(c) *Equipment and capital asset costs.* Equipment and capital assets purchased with grant funds awarded under this chapter, if approved in advance by the department. Inclusion of the equipment or capital asset in a grant agreement constitutes the department's approval. Equipment and capital assets shall conform to the procedures for maintenance and disposition of assets outlined under s. NR 193.14. If several component parts are purchased separately and assembled into a single piece of equipment, the department may consider the total cost of all components of the unit for reimbursement considering the appropriate cost-share percentage.

(d) *Acquisition costs.* Acquisition costs associated with the purchase of fee simple or a conservation easement land acquisition.

(2) INELIGIBLE COSTS. Costs not directly associated with or necessary for the implementation of the project, as determined by the department, are ineligible for reimbursement. Ineligible costs include those for activities outlined under s. NR 193.54 and s. NR 193.64 as well as all of the following:

(a) Fines or penalties incurred due to a violation of, or failure to comply with, federal, state, or local laws and regulations.

(b) Ordinary operation expenses of a grantee, such as salaries and expenses of public officials that are not directly related to the project.

(c) Purchase of aquatic plant harvesters, boats, motor vehicles, or office furniture.

Note: Financial support for the purchase of aquatic plant harvesters is available as specified in s. 30.92 (4) (b) 8., Stats.

(d) Dredging for enhancing navigation or recreation.

(e) Dam maintenance, repair and operation.

(f) Liability insurance.

(g) Water safety patrols.

(h) Routine maintenance and operating costs of equipment or facilities, including pumps, aerators, plant harvesters, or sedimentation basins.

(i) Indirect costs not directly assignable to a grant, program or project.

(j) Food or beverages at grantee events.

(k) Clothing, except that provided under the department-approved watercraft inspection program and other authorized department activities.

(L) Consulting costs for preparing an application for a grant awarded under this chapter.

(m) Costs associated with fundraising.

NR 193.07 Grantee match. (1) The grantee shall pay the grantee match for a grant awarded under this chapter using funds not provided by the department. The minimum grantee match shall amount to the percentage of the total project cost that is specified in Table 1 under s. NR 193.05. The grantee shall confer with the department if the grantee match includes federal funds or other state funds to determine applicability as grantee match.

(2) (a) Eligible sources of grantee match may be cash or in-kind contributions. Cash match may include cash from the grantee; funds generated by local, non-department state or federal governments; grants or contributions from foundations, businesses, private individuals or nonprofit organizations. To be acceptable, in-kind contributions shall otherwise be eligible expenses under the awarded grant subprogram and shall conform to the requirements of expense eligibility for that particular subprogram. In-kind contributions may include any of the following:

1. Labor from grantee staff established by grantee time sheets including salary, hourly wages, fringe benefits, and other costs determined by the department to be appropriate for the direct implementation and administration of the project.

2. Donated labor from volunteers, the maximum value of which is established by the department and included in the Surface Water Grant Program Guidance available on the Surface Water Grant Program webpage. Volunteers shall be at least 14 years of age in order for their time to be eligible as match.

Note: For a county conducting a project requiring compliance with U.S. department of agriculture natural resources conservation service standards, the value of donated labor rate in that county may be established by the U.S. department of agriculture farm service agency.

3. Donated professional services with the value determined in writing by the donor on donor letterhead.

4. Donated supplies or construction materials, with the value determined in writing by the donor.

5. Donated equipment, with the equipment purchase and rental value determined by the WisDOT's Classified Equipment Rates Standard and Special Rated Units for highway equipment. If the item donated does not appear on the WisDOT's Classified Equipment Rates Standard and Special Rated Units document, the applicant shall determine the value of donations using one of the following methods:

a. By choosing the closest equipment equivalent from WisDOT's Classified Equipment Rates Standard and Special Rated Units for highway equipment. Where the WisDOT's Classified Equipment Rates Standard and Special Rated Units for highway equipment lists "rate set locally," the department may determine a rate as published in the Surface Water Grant Program Guidance.

b. By determining the current market value using at least 3 estimates for purchase of equipment from vendors within the vicinity of the project. The lowest estimate will be used to establish the value of donated equipment. The applicant shall submit copies of all estimates with the grant application and the grantee shall maintain copies of estimates in the grantee's project file.

c. By determining the daily market rental rate at the time of application. The applicant shall establish the daily market rental rate using at least 3 estimates for the daily rental rate of equipment from vendors within the vicinity of the project. The lowest estimate will be used to establish the value of donated equipment use, prorated to reflect the number of hours of actual use.

Example: Presume the daily market rate for renting a trailer is \$60 every 8 hours, and the project requires 2 hours of use. The donated value for the trailer rental would amount to \$15.

$$\left(\frac{\$60}{8 \text{ hours}} \right) = \$7.50$$

$$\$7.50 \times 2 \text{ hours} = \$15$$

Note: An applicant shall use the version of the WisDOT's Classified Equipment Rates Standard and Special Rated Units for highway equipment in effect in the year in which the equipment usage occurred. The rates for equipment may be obtained from the Wisconsin department of transportation. See the department's Surface Water Grant Program webpage for the current Wisconsin department of transportation's Classified Equipment Rates published in the State Highway Maintenance Manual.

6. Other costs determined by the department to be necessary to carry out a successful project.

(b) The grantee shall track match expenditures by subcategory shown in the approved project budget, maintain proofs of purchase and proofs of payment for cash expenditures, and maintain all documentation that established the value for all donated, in-kind contributions.

(c) The grantee shall track the substantiated value of donated materials, equipment, services, and labor as all or part of the local share of the project costs.

Note: In-kind contributions may come from grantee members or from third parties. For grant purposes, "third parties" are neither the department of natural resources nor the grantee.

NR 193.08 Cost containment. (1) PROCEDURES. A grantee shall implement cost containment measures for all capital assets and any supply, service, or equipment item purchased by a grantee for projects funded with a grant awarded under this chapter and where the cost exceeds \$1,000. The grantee shall identify the cost containment procedure used when requesting reimbursement. The department may request that the grantee submit proof of cost containment procedures used in an application. The grantee shall use one or more of the following cost containment procedures:

(a) *Average cost.* Using cost information obtained within the 12 months prior to the start date of the grant agreement, determine an average cost per unit of material or labor for the implementation of activities. The grantee may use information obtained from the department,

other departments, or other sources to determine average costs. Under this option, eligible project costs may not exceed the average cost.

(b) *Competitive bidding.* Following the requirements under ch. 16, Stats., a grantee may request bids from contractors for the implementation of practices listed in a grant agreement. The grantee shall identify criteria for determining acceptable qualifications and publish these with the bid notice. Under this option, a grantee may select a qualified contractor other than the lowest qualified bidder but shall contribute 100% of the difference between the lowest qualified bid amount and the selected bid amount.

Note: Applicants may wish to review the Procurement Guide available on the Surface Water Grant Program webpage.

(c) *Flat rate.* The department may establish flat rates for eligible costs funded under this chapter. An applicant or grantee may choose to use the department's flat rate as one means of cost containment. Cost containment for services provided by a sub-unit of a local government may use one or more of their established flat rates. The grantee may use data obtained from the department, other departments, or from other sources to determine a flat rate.

Note: Flat rates will be published by the department on the Surface Water Grant Program webpage.

(d) *Force account.* A grantee may assign its employees to implement a practice.

(e) *Alternative cost containment measures.* If a grantee determines that another cost containment procedure would be more effective than the cost containment procedures described in pars. (a) to (d), the grantee shall identify the alternative in the grant application it submits for review and approval by the department.

(2) **DONATIONS.** The value of donated materials and supplies, equipment, services, and labor necessary to implement practices shall be established using cost-containment procedures in this section. The department may request that the grantee submit proof of procedures used to value donations related to a project. All sources of grantee match shall be indicated in the grant application submitted under this chapter. In-kind contributions shall abide by the all of following cost containment measures:

(a) The maximum value of donated professional labor may not exceed the prevailing local market wage for equivalent work.

(b) The maximum value of donated non-professional labor may not exceed the rate established by the department.

Note: The rate established by the department will be published on the Surface Water Grant Program webpage.

(c) The value of donated equipment as determined under s. NR 193.07 (2) (a) 5.

(d) The value of donated materials and services may not exceed market rates and shall be established by invoice.

(3) EXCEPTIONS. (a) Cost-containment procedures established in this section do not apply to fee simple or easement land acquisition under subch. VII. Cost of land acquisition shall in all cases be determined by appraisal approved by the department.

(b) To further control certain supplies, services, or equipment to be purchased by the grantee for department-approved projects, the department may establish a maximum cost for some supplies, services, equipment or activities in a landowner incentive program. Department-established award caps will be identified in the Surface Water grants Applicant Guide published by the department on the Surface Water grants web page at least 90 days before the grant application submission deadline.

NR 193.09 Applications. (1) APPLICATION SUBMISSION. (a) The department may establish application deadlines for each subprogram under this chapter. To be considered for grant funding, complete applications shall be post-marked no later than the application deadline for applications that are mailed, or shall be received by the department no later than 11:59 p.m. on the application deadline for applications submitted electronically. Complete applications are those that adhere to application instructions, include a complete project budget. All information requested by the application, and other required supporting documentation.

Note: An application and guidance on deadlines is available from the Surface Water Grant Program's webpage.

(b) The department may accept Aquatic Invasive Species Early Detection grant applications year-round.

(2) APPLICATION ELIGIBILITY. (a) The department will review applications for eligibility within 30 days of receipt. If the department determines an application is ineligible, the department will supply an explanation for the determination in writing. Prior to the application deadline, a grantee may address the eligibility concerns and submit a revised application for reconsideration. If the application deadline has passed, a revised application will only be considered during the next annual grant cycle. An application may be considered ineligible for the following reasons:

1. The application lacks information needed to evaluate and score the application.

2. The application lacks the clarity needed to determine results or outcomes.

3. The application proposes activities or outcomes that are inconsistent with the goals and objectives for surface water planning and management as described in this chapter, the enabling statutes, and program guidance.

(b) The department will review the application for completeness within 30 days of receipt and may either return the application with a request for more information or determine the application is ineligible. The application is not considered complete until the additional information requested by the department has been received. The department will only score and rank complete applications.

(3) FUNDING FLEXIBILITY. The department may determine if an application fits into more than one subprogram under this chapter. Each application may be scored against criteria for all applicable subprograms for which it qualifies.

(4) SCORING AND RANKING. (a) Following review for completeness and eligibility, department staff may evaluate the strengths of each application in consideration of funding priorities established under s. NR 193.11. Applications may be scored according to criteria published by the department and ranked by subprogram, from highest to lowest project score.

(b) The department may establish a minimally acceptable score for applications submitted under each subprogram.

Note: The department's scoring criteria and minimally acceptable score are available on the Surface Water Grant Program webpage.

(5) APPLICANT NOTICE. The department will notify applicants of the status of their grant applications and the likely amount of grant awards. If a project as described in the grant application is determined to be ineligible, the department will notify the applicant, in writing, of the basis for its determination. If the department is unable to provide the amount of grant funding requested by the applicant, the department may notify the applicant, in writing, of the basis for funding denial.

(6) PROJECT PRIORITY LIST. (a) The department will prepare a new or update an existing funding priority list following scoring and ranking of applications submitted to the department. The project priority list includes all applications that will be offered grant funding, ranked in order of project score. Available funding will be offered to applications in the order they appear on the priority list

Note: The department will publish the project priority list on the Surface Water Grant Program web page.

(b) The department may offer financial assistance to an applicant in an amount less than requested for the following reasons:

1. Available grant funding is insufficient to fully fund a project in that subprogram. In the event two or more applications have an identical score but the funding remaining is insufficient to fund both projects, the department shall offer the applicants an identical percentage of their projects' total request.

Example: Two projects with the same score request funding in the amounts of \$200,000 and \$10,000 but the available grant funding amounts to \$20,000. Each of the projects shall be offered 9.52% of their total request, or \$19,040 and \$952 respectively.

$$\$10,000x + \$200,000x = \$20,000 \text{ where } x = 9.52\%$$

2. The department determines a proposed activity is not necessary to meet the goals of the surface water grant program.

NR 193.10 Public access. (1) Each grant application for a project on a public waterbody shall include a description of the existing and if applicable, proposed public access. The description shall include current and future public use at all access sites, a map of the waterbody or project area, the location and numbers of carry-in sites and boat landings, numbers of car and trailer parking spaces or street parking options, and the location or proximity of public parks or other public access features.

(2) The department may not provide grant awards for natural resources enhancement services on waterbodies that do not meet the minimum public boating access standards provided in s. NR 1.91 (4) or the alternative public boating access standards provided in s. NR 1.91 (6).

(3) The department may provide grant awards for resource protection services under s. NR 1.91 (4) (c) if public boating access is not available on a waterbody.

Note: Early Detection and Response Grants awarded under subchapter VI for prohibited species identified in ch. NR 40 are considered resource protection services.

NR 193.11 Priorities. (1) The department will establish grant funding priorities for each subprogram under this chapter.

Note: The department's priorities for grant funding are posted on the department's Surface Water Grant Program webpage. The department will use a variety of platforms to conduct outreach and notify potential applicants of program priorities. Outreach efforts may include publication on the department's website, email notification, social media announcements, and other platforms of communication.

(2) The department shall give priority to applications on waterbodies that meet the minimum public boating access standards under s. NR 1.91 (4) (d) or where the department determines that existing facilities are sufficient to meet existing demand for public access. If public boating access does not exist on a waterbody and a grant application will increase public boating access, then the department shall include the application in the project priority list and rank it as if the project had public boating access. Project eligibility is subject to public access requirements under s. NR 193.10.

NR 193.12 Grant awards and grant agreements. (1) GENERAL PROCEDURES. A grant award for costs of a project as estimated in the grant application and approved by the department

may not exceed the maximum amount given the DNR cost-share percentage identified under s. NR 193.05. Applicants may include in-kind contributions in their grant application budget. The department may use that budget to calculate the grant award. The department may not issue a grant award that exceeds a grantee's cash costs necessary to complete the project. The department may award a grant under this chapter while the grantee is in the process of acquiring the required permits for the project.

Example: An applicant submits a planning grant application, selecting the standard cost-share percentage of 67%. The application budget indicates cash costs of \$20,000 and in-kind contributions of \$20,000 for a total project cost of \$40,000. The DNR cost-share rate of 67% would yield a potential grant award of \$26,800 based on the cash costs and in-kind contributions. However, \$26,800 is higher than actual cash costs identified in the budget of \$20,000. As a result, the maximum grant award the department may provide is \$20,000.

(2) AWARDS AND AGREEMENTS. All grant awards will result in the issuance of a grant agreement that is subject to s. NR 193.13. The grant agreement is a contract between the department and the grantee, and the grantee's receipt of the grant award is conditional upon its execution of the grant agreement. The grant agreement will contain the terms and conditions of the grant award, including a project scope describing what the project will accomplish. A project scope may include a summary of the specific goals and objectives, deliverables, products, tasks and timeline for a project funded under this chapter. Project scope incorporates information submitted by the applicant in the grant application. A grant application for a project becomes part of the grant agreement by reference. The department and the grantee mutually agree to implement the grant agreement in accordance with the project proposal, application, terms, promises, conditions, plans, specifications, estimates, procedures, maps, and any assurances attached and made a part of the agreement.

(3) AMENDMENTS. A grantee may request, in writing and during the life of the grant agreement, an amendment to the grant agreement for expenditures that deviate from those which appear in the original grant agreement, for changes to the project scope, or for an extension of the grant period. The grantee shall provide to the department written justification for the amendment request. The department may consider the justification and the availability of grant funds. Amendments to cost or project scope of the original agreement must be signed by the department and the grantee prior to the end date of the agreement. The department may require

requests for cost amendment to be submitted during a subsequent application process to be ranked with new applications. Time extensions to the original agreement may be granted by the department in writing without the requirement of the grantee's signature. Time extensions are not available for department-approved watercraft inspection programs. The department shall provide notification of the decision to approve or deny the amendment to the grantee in writing.

Note: To increase the likelihood of a successful amendment request, it is recommended that the grantee submit the request at least 2 weeks prior to the end date of the grant agreement.

NR 193.13 Conditions for grant agreements. (1) GENERAL. The department may include conditions in a grant agreement related to any of the following:

(a) Mandatory compliance with all applicable provisions of the Wisconsin statutes and the Wisconsin administrative code and all applicable federal, state, and local contract and bidding requirements in fulfilling terms of the grant agreement.

Note: The grantee should consult its legal counsel with questions concerning contracts and bidding.

Note: The department has developed the Procurement Guide for Local Governments Receiving DNR Grants, available on the department website.

(b) Requirements for the grantee to obtain and comply with permits.

(c) The range of elements that constitute the grant agreement.

(d) That the grantee is bound to implement the grant agreement in its entirety.

(e) Circumstances under which a grant agreement may be amended.

(f) Expectation that the grantee use generally accepted accounting principles and practices.

(g) A grantee's status as an independent contractor and ability to exert sole control over its employees and contractors.

(h) Expectation that the grantee develop and enforce a written code of conduct for its employees or agents

- (i) Eligible project costs.
- (j) The methods, protocols, procedures, laboratory or analyses employed by a grantee to implement a grant agreement.
- (k) Source and amount of grantee match.
- (L) Circumstances for a grant advance.
- (m) Expectation that a grantee will hire a contractor or agent using a professional service agreement.
- (n) Partial payment amount and frequency.
- (o) Reporting requirements.
- (p) Expectation that a grantee will record the grant agreement on the property title.
- (q) Restrictions of final payments and the timing of request.
- (r) Percent of grant award retained by the department for final payment.
- (s) Expectation that a grantee will make a project site available for inspection by the department.
- (t) Circumstances for grant agreement termination by the department related to grantee performance.
- (u) Circumstances under which a grantee must repay grant funds to the department for failure to comply with one or more conditions of the grant agreement.
- (v) Disposition of supplies, equipment, and capital assets by the grantee.
- (w) Obligation for a grantee to retain and disclose project financial records.
- (x) Responsibility of a grantee to have an annual audit performed on federal funds received from a state or federal agency in accordance with 2 CFR Part 200, Uniform

Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, also known as “Uniform Guidance,” and WI State Single Audit Guidelines issued by Wisconsin department of administration, state controller’s office, if the total of all federal of state grant funds received by the grantee is at least \$750,000 during the grantee’s fiscal year.

(2) SPECIAL CONDITIONS. The department may include special conditions in a grant agreement for a grant awarded under this chapter. Special conditions typically include requirements that a federal agency has placed on the department through a federal grant and that are passed through to third parties that receive and use those federal funds. Special conditions may also include unique water quality or biological requirements or reporting requirements that are deemed appropriate by the department. A grant project that includes fee simple or easement land acquisition will also include special conditions related to the department’s evaluation of offers to purchase, appraisals, land surveys, and other real estate costs approved by the department.

(3) ESSENTIAL CONDITIONS FOR LAND ACQUISITION. The department shall include all conditions that are essential for a grant awarded under this chapter in a grant agreement. Essential conditions for land acquisition projects are specified in s. 281.71 (1), (2), (3), and (5), Stats. Failure to comply with any essential condition will result in the title of the subject property being vested to the state.

NR 193.14 Maintenance and disposition of assets. A grantee may purchase supplies, equipment, or capital assets with a grant provided under this chapter, consistent with limitations for each subprogram and federal guidelines, if applicable. The grantee shall adhere to all of the following maintenance and disposition procedures for supplies, equipment, and capital assets purchased with grant funds awarded under this chapter:

(1) SUPPLIES. The grantee may retain, sell, or dispose of project supplies after the term of the grant agreement and may retain sale proceeds.

(2) EQUIPMENT. (a) The grantee shall maintain equipment purchased with a grant awarded under this chapter in good working order during the term of the grant agreement, including use of proper fuel, routine maintenance, and fresh batteries.

(b) Equipment purchased with a grant awarded under this chapter may not be sold or donated during the term of the grant agreement.

(c) After the term of a grant agreement the grantee may retain, sell, or donate equipment purchased with a grant under this chapter and may retain sale proceeds. Sales to state of Wisconsin employees are prohibited unless items are sold at announced public sales or auctions. Acceptable methods for sale or donation include any of the following:

1. Competitive bid.
2. Public auction.
3. Open negotiated and documented sale.
4. Offer to the public at a fixed sale price.
5. Donation, transfer, or sale to another grantee qualified to receive a grant under this chapter.
6. Sale for salvage value.
7. Donation to a scrap yard or business when the equipment has no or limited value.

(3) CAPITAL ASSETS. The grantee shall retain capital assets purchased with grant funds awarded under this chapter in good working order during the term of the grant agreement, including use of proper fuel, routine maintenance, and fresh batteries. Other conditions pertaining to capital assets include the following:

(a) Capital assets purchased with grant funds awarded under this chapter may not be sold or donated during the term of the grant agreement.

(b) Capital asset costs are depreciated over the useful life of the item and prorated for the length of the grant period.

Example: Suppose water sampling equipment costs \$6,000 to purchase. Since the value is greater than \$5,000 the equipment is considered a capital asset and shall be depreciated for grant purposes. Suppose further that the water sampling equipment has a useful life of 10 years. For a planning grant award with a 3-year term and 67%

DNR cost share rate, the maximum amount that can be paid with grant funds awarded under this chapter is \$1,206.

$$\left(\frac{\$6,000}{10 \text{ years}}\right) \times 3 \text{ years} = \$1,800 \times 67\% = \$1,206$$

(c) All of the following disposition procedures apply to capital assets purchased with grant funds awarded under this chapter:

1. If the per-unit fair market value of the capital asset at the end of the grant project is less than \$5,000, the grantee may retain, sell, or donate the capital asset and may retain sale proceeds. Sales to state of Wisconsin employees are prohibited unless items are sold at announced public sales or auctions. Acceptable methods for sale or donation are the same as for equipment, as described sub (2) (b). For purposes of this subdivision, “fair market value” means the price agreed upon between a willing buyer and a willing seller, with neither being required to act, and both having reasonable knowledge about the make, model, age, condition, maintenance history, and other relevant facts about the capital asset.

2. If the per-unit fair market value of the capital asset at the end of the grant project is \$5,000 or more, repayment may be owed to the department if the capital asset is to be sold or donated to another party and the department provided cost-shared funding for the entire cost of the capital asset. Acceptable methods for sale or donation of capital assets after the life of the grant agreement are the same as described for equipment under sub. (2) (c).

3. If a grantee purchased a capital asset in part with federal funding, the capital asset is subject to federal law for purposes of asset disposal.

(4) DISPOSITION. A grantee shall retain records relating to disposition of the equipment, and capital assets as a condition of the grant agreement and make such records available to the department upon request for a period of 6 years after the date of final sale.

NR 193.15 Required deed restrictions. (1) COST-SHARE AGREEMENTS. If the land on which a project is installed has an operation and maintenance period of more than 10 years, but the land is not owned by the grantee, the grantee shall enter into a cost-share agreement with the landowner and record the cost-share agreement at the register of deeds office in the county where the property is located. The grantee shall use the cost-share agreement template provided by the department. This subsection does not apply to Healthy Lakes projects.

Note: The cost-share agreement template is available from the department's Surface Water Grant Program webpage.

(2) GRANT AGREEMENTS. (a) If the land on which a project is installed has an operation and maintenance period of more than 10 years, and the land is owned by the grantee, the grantee shall record the grant agreement at the register of deeds office in the county where the property is located. This paragraph does not apply to Healthy Lakes projects.

(b) When a grant under subch. VII is awarded for fee simple or conservation easement land acquisition, the grantee shall record the grant agreement at the register of deeds office in the county where the property is located. All obligations, terms, conditions and restrictions imposed by the grant agreement shall be deemed to be covenants and restrictions running with the property and shall be effective limitations on the use of the property from the date of recording of the grant agreement and shall bind the grantee and all successors and assigns in perpetuity.

NR 193.16 Professional service agreements. (1) PROCEDURES. Any grantee who subcontracts or hires an agent to undertake any portion of a project requiring more than \$1,000 of grant funding awarded under this chapter shall enter into a professional services agreement with the contractor or agent prior to the commencement of any contracted work using a form designated by the department. Agents include professional service providers, consultants, contractors, engineers, designers, attorneys, information technology specialists, planners, educators, and other professionals carrying out activities funded with a grant awarded under this chapter. A grantee who subcontracts or hires an agent shall comply with the cost-containment provisions under s. NR 193.08. A grantee shall submit to the department the fully executed professional service agreement with its request for final payment.

(2) EXCEPTIONS. In those cases where the department approves planning or design costs needed for project work that requires a permit, the department understands that the professional services agreement will not be in place before contracted work begins. Likewise, for Early Detection and Response project under the Aquatic Invasive Species grant program, the department may authorize project work to begin before a professional services agreement is in place.

NR 193.17 Project quality assurance requirements. (1) A grantee shall ensure that its staff, contractors, volunteers, and service providers conducting activities funded with a grant awarded under this chapter complete minimum training requirements established by the department specific to the grant subprogram and prior to the start of the project. A grantee shall contact department lake or river coordinators for information on training requirements and any department-sponsored training opportunities.

(2) A grantee shall ensure that all analyses conducted as part of a project funded with a grant awarded under this chapter are performed by the Wisconsin state laboratory of hygiene or a laboratory approved in writing by the department.

(3) A grantee shall implement department-approved quality assurance and quality control plans during the project period. If such protocols do not exist, a grantee collecting physical, biological, or chemical data may be required to submit a quality assurance and quality control plan to the department for approval prior to beginning a project funded with a grant awarded under this chapter. Quality assurance and quality control plans shall include details on the data and information to be collected, data quality standards for precision, accuracy, completeness and validation, and a plan for data management. The department may require program-approved monitoring protocols or maintenance activities necessary to track project progress or outcomes.

(4) A grantee shall submit to the department all data and other information acquired as part of a project funded with a grant awarded under this chapter in a format and frequency specified by the department in the grant agreement.

(5) A grantee shall employ program-approved protocols to accomplish project activities. If protocols are not available for proposed activities, an applicant may be required to submit a plan for department approval prior to beginning a project funded with a grant awarded under this chapter.

Note: Program-approved protocols include aquatic plant baseline monitoring, aquatic plant pre/post treatment monitoring, wetland plant community assessment and wetland pre/post treatment monitoring, water clarity and chemistry monitoring, aquatic invasive species early detection, prevention, and monitoring, lake classification and assessment, macroinvertebrate community monitoring, water quality monitoring, and social science.

NR 193.18 Grant payments. The department may make payment to the grantee, including advance payments, escrow payments and reimbursements, in the following manner:

(1) Grants awarded under this chapter are generally administered on a reimbursement basis. A grantee shall incur and pay all costs and invoiced work completed before requesting a partial or final payment from the department. A grantee shall submit to the department a request for reimbursement on forms designated by the department at a frequency determined by the department and specified in the grant agreement.

(2) The department may distribute one grant advance, with maximum amount determined per subprogram using the percentage identified in Table 1. The grantee may request a grant advance at the same time they return a signed grant agreement to the department.

(3) The department may only reimburse for eligible project costs incurred during the grant period, except when otherwise approved by the department in writing. For management grants, land acquisition grants notwithstanding, a grantee may request one partial payment per year. The total of all partial payments issued by the department may not exceed 90% of the total grant award. Education and planning grants are not eligible for partial payments. Table 2 summarizes partial payments by grant program. A request for partial payment shall be submitted along with a progress report detailing activities that have taken place during the time period for which the grantee is seeking reimbursement and is subject to approval by the department.

(4) A request for final payment shall be submitted no later than six months after the end of the grant period. Final payment requests shall be accompanied by a final report detailing activities that have taken place during the entire project period and documentation for the costs being claimed. The final payment may not be issued by the department until final costs have been reviewed, final reports have been approved, required audits have been completed successfully, and the department has made a determination that the grant agreement has been satisfactorily fulfilled.

(5) All project costs are subject to a post-audit process that may take place after partial and final payments are issued by the department. If a determination is made that payments were made in error, the grantee may be required to make a repayment to the department.

TABLE 2
Surface Water Grant Program Payment Table

This table summarizes eligibility for partial payments, the maximum frequency of payments, the maximum number of partial payments allowed during the life of the grant, and the percentage of the grant award that is required to be retained for final payment for each subprogram under this chapter.					
Grant Category	Grant Subprogram	Partial Payments Allowed	Frequency of Partial Payments	Maximum Number of Partial Payments	Percentage of Grant Award Retained for Final Payment
Education and Planning Grants	All education & planning subprograms	No	Not applicable	Not applicable	25%
Management Grants	Lake & River Fee Simple Land and Easement Acquisition	No	Not applicable	Not applicable	Remaining associated costs
	Wetland Restoration Incentives	No	Not applicable	Not applicable	0%
	All subprograms other than land acquisition	Yes	1 per year	4	10%

NR 193.19 Grantee reporting. Reports shall accompany a grantee’s request for payment. A grantee shall submit a progress report that details the accomplishments and activities that have taken place during the reporting period at the same time they request a partial payment. The department may also request a progress report from the grantee at any time, up to four times per year. A grantee shall submit such a report within 30 days of receiving the request. At the same time a grantee submits a request for final payment, they shall submit a final report detailing the accomplishments and activities that occurred during the entire grant period. A final report shall be a written account of project activities, accomplishments, any obstacles encountered and shall include all data collected, information produced, and all grant deliverables specified in the grant agreement. A final report shall follow content or format guidelines specified by the department and shall be in an electronic format and suitable for distribution to and use by the public. A final report is subject to approval by the department prior to final payment. The department may use the final reports and associated images for reporting and promotional purposes.

NR 193.20 Variances. The department may approve, in writing, a variance from a requirement of this chapter upon the written request of a grantee, if the department determines that a variance is essential to effect necessary grant actions or program objectives, and where

special circumstances indicate a variance is in the best interest of the program. Before approving a variance, the department shall consider factors such as good cause and circumstances beyond the control of the sponsor. The department may not approve variances from statutory requirements, or from appraisal, environmental inspection, or audit requirements.

SUBCHAPTER II – EDUCATION AND PLANNING

NR 193.30 Purpose. The purpose of this subchapter is to establish procedures for awarding cost-sharing grants for implementing a surface water management planning program. Subprograms under this subchapter include all of the following:

(1) Education projects, which are undertaken to provide information and education to increase understanding of surface water and aquatic ecosystems. Eligible projects may focus on surface water quality, the quality of aquatic ecosystems, the quality of aquatic life, methods to protect the quality of any of the foregoing, the use of surface water, or the formation of river management organizations.

(2) Planning projects, which enhance the assessment of surface water quality and aid in the selection of activities that will benefit surface water, including those that protect or improve water quality, prevent pollution from entering waterbodies, or protect or improve aquatic ecosystems.

NR 193.31 Education. Projects eligible for funding under the education subprogram include all of the following:

(1) SURFACE WATER INFORMATION AND EDUCATION . Surface water information and education projects accumulate new or existing information on surface water or aquatic ecosystems and disseminate it to broaden public understanding. Eligible projects may focus on surface water, aquatic ecosystems, aquatic life, water quality, the quality of aquatic ecosystems or methods to improve or protect any of the foregoing.

(2) AQUATIC INVASIVE SPECIES INFORMATION, EDUCATION OR INSPECTION PROGRAMS. Aquatic invasive species information, education or inspection projects accumulate new or existing information about aquatic invasive species and disseminate it to broaden public

understanding. Eligible projects may focus on aquatic invasive species, aquatic invasive species identification, threats posed by aquatic invasive species, effects on aquatic ecosystems, measures to prevent spread, best practices for aquatic invasive species control, and watercraft inspection. Projects shall be consistent with the department's statewide aquatic invasive species management plan for preventing the arrival and spread of aquatic invasive species. Watercraft inspection projects shall comply with all of the following:

(a) Watercraft inspectors shall be trained by attending a department-approved training workshop and receiving program materials approved by the department prior to project initiation.

(b) Trained inspectors shall conduct inspections of watercraft or equipment at waterbody access points. Watercraft inspectors shall collect and report data, provide education, and collect or report specimens that may be aquatic invasive species.

(c) Trained watercraft inspectors shall accumulate a minimum of 200 inspection hours per waterbody access point or a minimum of 200 inspection hours per 2 access points when public activity on waterbodies is the highest, including during weekends, holidays, fishing tournaments, and other special events.

(d) Data collected through watercraft and equipment inspection shall be reported through the department's statewide database. These reports shall serve as the final report as required in s. NR 193.19.

Note: "Clean Boats, Clean Waters" is the department-approved watercraft inspection program and the Surface Water Integrated Monitoring System is the department's statewide database.

(3) TRAINING AND SKILL DEVELOPMENT. Training and skill development projects assist a grantee in developing and conducting workshops or other training and education programs for volunteers and participants in a lake or river planning or management project.

(4) ORGANIZATION DEVELOPMENT. Organization development projects focus on providing informational and educational activities to develop an organization's capacity to carry out planning or management projects. Eligible projects may also assist a grantee in the formation of goals and objectives for a planning or management project. Grant funds awarded under this

subsection may be used to support other projects approved by the department that will aid in an organization's ability to protect or improve surface water or aquatic ecosystems.

(5) RIVER MANAGEMENT ORGANIZATION FORMATION. River management organization formation projects provide programs and materials to assist in forming a river management organization or meeting the criteria of a qualified river management organization. Eligible activities may include training; education; facilitated planning programs; facilitated workshops; development, printing and dissemination of information, surveys or educational materials designed to understand or attract members.

NR 193.32 Planning. (1) ELIGIBLE PROJECTS. Projects eligible for funding under the planning subprogram include all of the following:

(a) *Preparing to plan.* Preparing to plan projects assist a grantee in taking steps toward developing a management plan for a waterbody, a watershed, aquatic plant community, aquatic life, or aquatic invasive species. Eligible projects include determining a waterbody's condition; outlining goals, expectations and priorities for management; inventorying existing data and identifying data gaps when they exist; identifying problems needing management; inventorying historical management actions; or assessing planning needs to define the scope and scale of a future planning or management project.

(b) *Organization and community assessment.* Organization and community assessment projects assist in the protection or improvement of surface water by focusing on the social dimensions of collaborative planning or management projects. Eligible projects shall employ social science tools and methods and may identify stakeholders; determine a community's capacity to complete a planning or management project; assess a community's readiness to plan or manage; identify how a community uses, values or perceives an aquatic ecosystem, or study how use values or perceptions have changed over time.

Note: Social science tools and methods include surveys, interviews, focus groups, assessments, case studies and oral histories.

(c) *Water quality assessment.* Water quality assessment projects evaluate data on surface water quality and report the findings of those evaluations. Eligible projects shall collect new or

assemble existing water quality data and shall include an assessment of waterbody condition following the Wisconsin Consolidated Assessment and Listing Method, or WisCALM. Eligible activities include a quantitative evaluation of the degree that pollution sources contribute to water quality problems.

Note: Pollution sources include point source, nonpoint source, and internal loading.

(d) *Watershed assessment.* Watershed assessment projects determine the causes and sources of pollution in the watershed that are contributing to water quality problems now or in the likely future. Eligible activities shall include one or more of the following: data collection and analysis; modelling; scenarios; protection inventories; or other work done to understand watershed characteristics likely to affect the quality of surface water or aquatic ecosystems now or in the future. Watershed projects may also include assessing groundwater quality and quantity, and assessing contributions of septic systems to water quality problems.

(e) *Aquatic life assessment.* Aquatic life assessment projects evaluate data on aquatic life and report findings. Eligible projects shall collect new or assemble existing data on an aquatic plant community, fish community, shoreline habitat, or other aquatic life feature approved by the department. Eligible activities may include one or more of the following: species-specific identification; an assessment of aquatic life quality or condition; mapping; population analysis; population modelling; any assessments necessary for aquatic invasive species control; and other aquatic life projects necessary for the protection or improvement of aquatic ecosystems.

(f) *Management plan development.* Management plan development projects result in a new or updated management plan for one or more of the following: a lake, a river, a watershed, an aquatic plant community, or aquatic invasive species prevention. Management plans shall include recommendations for management activities that are likely to protect or improve the condition of surface water or aquatic ecosystems and the public shall be given an opportunity to review the plan and provide comment. Management plan recommendations shall be submitted to the department for a determination of eligibility as specified under s. NR 193.53 before the recommendations may be considered eligible activities for a management plan implementation grant under s. NR 193.51 (6).

Note: Management plans include watershed plans, nine key element watershed plans, basin plans, Total Maximum Daily Loads, lake management plans, river management plans, county land and water plans, aquatic plant management plans, and aquatic invasive species control plans.

(g) *Pre-implementation planning.* Pre-implementation planning projects result in final design and specifications for a lake management plan implementation project eligible under s. NR 193.51 (6). Eligible activities for pre-implementation planning projects include one or more of the following: site assessment, monitoring, modelling, environmental assessment, the drafting of engineering plans, the drafting of construction plans, landscape design, and site-specific specifications.

(h) *Other assessments and planning projects.* Other projects and activities necessary for developing or updating a management plan may be approved by the department as eligible for a grant awarded under this subchapter.

Note: Other assessments and planning projects include review, evaluation or development of ordinances and other local regulations related to the management of pollution sources, recreational use, or other human activities that may affect natural beauty or other components of a lake or river ecosystem.

(2) EDUCATION ACTIVITIES IN PLANNING PROJECTS. No more than 20% of the funding for a planning project may support education activities listed under s. NR 193.31.

NR 193.33 Conditions for management plan development grants. A management plan completed under s. NR 193.32 (1) (f) shall serve as the final report required under s. NR 193.19. The management plan shall be submitted to the department with a description of the process used to provide the public the opportunity to review and comment on the plan, a summary of comments received and the steps the grantee intends to take to formally adopt the plan. The department may review the plan or request edits prior to approval for final payment. Approval of final payment does not necessarily constitute department approval for an implementation grant under s. NR 193.53. If a grantee intends to apply for one or more management plan implementation grants under s. NR 193.51 (6) or s. NR 193.63 (2) or (3), a grantee shall request from the department a determination of eligibility of specific plan recommendations as outlined under s. NR 193.53. The department may approve none, some, or all of the submitted management plan's recommendations for implementation.

SUBCHAPTER III – COUNTY LAKE GRANTS

NR 193.40 Purpose. The purpose of this subchapter is to establish procedures for implementing a lake classification grant program as provided for in s. 281.69 (5), Stats. Grants awarded under this program will allow counties to assist the department to update and improve lake information, classify lakes by use, and implement activities that will protect water quality and lake ecosystems.

NR 193.41 Eligible grantees. Only counties are eligible to apply for a county lake grant.

NR 193.42 Eligible projects. One or more projects may be included in a single grant application. Any of the following projects are eligible for a county lake grant:

(1) COUNTY LAKE PROTECTION PLANS. County lake protection planning projects will update and improve basic lake information for lakes occurring in the county, establish consistency with state and county lake information systems, and identify lakes in need of protection. A lake protection planning project shall result in a lake protection strategy that is designed by the county working in cooperation with the department and employing program-approved protocols. A lake protection plan shall have all of the following elements:

(a) A county shall verify and, where necessary, update basic lake information. Updated or new state lake information that may impact a regulatory program shall be approved by the department before becoming official lake information. The following information is considered basic lake information for the purposes of this paragraph:

1. The size, depth, and shape of the lake.
2. The size of the lake's watershed.
3. The quality of the water in the lake.
4. The location and capacity of public access.
5. The presence of aquatic invasive species.

(b) A county shall identify lake protection priorities for the purposes of implementing a county lake protection project. Lakes that are identified as protection lakes are those that are attaining state eutrophication water quality standards. For the purposes of identifying county lake protection projects, counties shall classify a subset of those lakes that are most vulnerable to degradation, considering all of the following factors:

1. The lake's current use, or potential for the lake to be overused for recreational purposes.
2. The current or potential development of land surrounding the lake.
3. The potential for the lake to suffer from nonpoint source water pollution.
4. The condition of the fish and wildlife population and the extent of their habitats in and around the lake.
5. The presence or risk of introduction of aquatic invasive species.

(c) A county shall develop a list of proposed activities for lake protection and a strategy for their implementation.

(d) A county may classify lakes for the purposes of implementing protection activities for which the county or a cooperating jurisdiction, has existing statutory authority. A county may work with other local governments on lake use classification for managing recreational uses. Nothing in this section shall be interpreted to grant new authority to counties for managing lakes and shorelines. Classification and the resulting protection activities may not result in lowering existing state standards designed to protect lakes and shall be consistent with all existing state classifications and regulatory programs.

Note: Examples of state lake information can be found in Wisconsin Lakes PUB-FH-800, the Surface Water Integrated Monitoring System (SWIMS), and the department's 24K hydrography database.

(2) COUNTY LAKE PROTECTION PROJECTS. A county that has completed a lake protection plan is eligible to apply for a grant under this subchapter to assist in the implementation of lake

protection activities. Eligible projects are planning and management projects that have been identified in this chapter.

SUBCHAPTER IV – SURFACE WATER MANAGEMENT

NR 193.50 Purpose. The purpose of this subchapter is to establish procedures to award cost-sharing grants to implement a surface water management grant program for lakes, rivers and wetlands. Grants awarded under this subchapter shall be used to implement protection or improvement projects for surface water or aquatic ecosystems. Grant funding awarded under this subchapter may be used to for healthy lakes and rivers projects, shoreland protection, in-water management, wetland restoration, management plan implementation, wetland incentives, and ordinance development.

NR 193.51 Surface water management projects. Surface water management projects shall protect or restore aquatic life or water quality. Subprograms under this subchapter include all of the following:

(1) HEALTHY LAKES AND RIVERS. A healthy lakes and rivers project will assist a grantee to implement prescribed best management practices to create healthy lakes and rivers. Projects are subject to all of the following conditions:

(a) Install best management practices that are determined and approved by the department.

(b) Follow the operation and maintenance requirements as prescribed by the department. A grantee shall obtain a signed conservation contract from all participating landowners that includes a commitment to install one or more best practices and to operate and maintain the function of the practice for at least 10 years.

(c) Include no more than 10% of the DNR cost share of a healthy lakes and rivers project as project management or technical assistance costs that are not implementation costs. The 10% is calculated based on the DNR cost share of the per practice cost and cannot exceed the funding cap.

Note: A copy of the statewide Healthy Lakes and Rivers Plan may be obtained directly from the Healthy Lakes website. Copies are also on file at the offices of the department and legislative reference bureau.

(2) SHORELAND PROTECTION. A shoreland protection project will assist a grantee in carrying out best management practices intended to improve surface water or aquatic ecosystems. Eligible activities include one or more of the following best practices conducted in compliance with the general and practice-specific standards outlined in s. ATCP 50.61:

(a) Critical area stabilization.

(b) Diversions.

(c) Filter strips.

(d) Grade stabilization structures on artificial or non-navigable streams, channels, and gullies.

(e) Riparian buffers.

(f) Streambank or shoreline protection, in conjunction with revegetation, soil bioengineering, or upland erosion control.

(g) Water bars; sediment and water basins; pervious pavement; rain gardens; vegetation planting and urban pollution and runoff control projects; and impervious area removal within 35 feet of the ordinary high-water mark.

(3) IN-WATER MANAGEMENT. In-water management projects will assist a grantee to protect or improve the littoral or in-stream areas of waterbodies. Eligible activities include installing department-approved structures that provide fish or wildlife habitat; culvert, road, or trail stream crossing modification or removal, other modifications to improve habitat or connectivity; and planting of native aquatic plants.

(4) WETLAND RESTORATION. Wetland restoration projects will assist a grantee to restore or enhance a prior converted or existing wetland. Projects shall occur on hydric soils. A grantee shall implement best practices outlined in ch. ATCP 50 and follow the associated U.S. department of agriculture natural resources conservation service practice standards for Wisconsin

for wetland restoration or enhancement. Eligible activities include drainage tile disablement, ditch plugs and fills, water level manipulation, or vegetation management and enhancement.

(5) WETLAND RESTORATION INCENTIVES. Wetland restoration incentives are intended to support wetland restoration projects and are available to a grantee who has completed a comprehensive land use plan as defined in s. 66.1001 (1) (a), Stats., that includes a recommendation for wetland enhancement or restoration. Incentive grants of \$10,000 each will be awarded to eligible recipients with no grantee match required. Funds awarded under this subsection shall be used for wetland restoration projects following standards outlined in sub. (4). Eligible recipients shall include counties, towns, villages, qualified lake associations, town sanitary districts, public inland lake protection and rehabilitation districts, and other local governmental units. Qualified surface water management organizations and nonprofit conservation organizations are not eligible for grants under this subsection.

(6) MANAGEMENT PLAN IMPLEMENTATION. Management plan implementation projects shall protect or improve surface water or aquatic ecosystems by implementing one or more recommendations contained in a management plan and approved for eligibility by the department under s. NR 193.53. Eligible activities shall be those that are necessary to implement the approved recommendations. Once the department has approved a management plan recommendation and implementation project, the applicant may apply for grant funding. Eligible activities subject to approval include all of the following:

(a) Those that are eligible under s. 193.51 (2), (3), and (4)

(b) Other watershed management and nonpoint source pollution prevention and control practices specified in ch. NR 120.

(c) Lake restoration activities where the department has determined that any of the following conditions exist:

1. The external sources or causative factors of the problems to be remediated have been or very likely will be controlled to the best practical extent possible prior to or by the restoration activities.

2. The proposed activities have a high likelihood of successfully meeting the management plan objectives or state water quality standards.

(d) Other activities approved by the department that implement one or more recommendations in a management plan, including any of the following:

1. Management staffing grants to support implementation. Applications for management staffing grants shall include a position description including goals, objectives and tasks and the percentage of time assigned to each activity. For staffing requests of over 1,000 hours, the department may require annual or semi-annual performance reviews.

2. Applied management studies that employ a research-based approach designed to improve the understanding and implementation of surface water management activities.

3. Landowner incentive projects to encourage participation in surface water quality or aquatic habitat management activities. Incentive payments may include incentives for conservation best practices or participation incentives for landowners or businesses engaging in a department-approved initiative. Applications shall include a justification for payment or other incentives, a description of the payment process and documentation, and expected outcomes.

(7) **ORDINANCE DEVELOPMENT.** Ordinance development projects assist a grantee with the development of local regulations or ordinances to protect or prevent degradation of water quality or aquatic life. Ordinance development projects shall include all of the following:

(a) The development of an ordinance that is presented for adoption by the grantee or another appropriate jurisdiction.

(b) An assessment of the administrative and enforcement capacity and costs to implement the ordinance.

Note: Examples of ordinances include boating or other recreational use restrictions and land use ordinances.

NR 193.52 General requirements. (1) APPLICABILITY. Healthy lakes and rivers projects, shoreland protection projects, in-water management projects, wetland restoration projects, and

wetland restoration incentives outlined in s. NR 193.51 (1), (2), (3), (4), or (5) shall occur in one or more of the following locations:

(a) Within 1,000 feet of the ordinary high water mark of a lake.

(b) Within 300 feet of a river, or to the landward side of the flood plain, whichever distance is greater.

(c) Within a wetland that is part of an aquatic ecosystem.

(2) PROJECT DESIGN PLAN. In addition to the application elements specified in subch. I, applications for a grant for a shoreland protection project, in-water management project, or wetland restoration project outlined in s. NR 193.51 (2), (3), or (4) shall be submitted with a project design plan that includes the following elements to be considered during application review and ranking:

(a) A project implementation timeline and a site map. Projects requiring design and engineering shall submit one or more additional supporting documents, including schematics, site plans, monitoring plan, monitoring schedule, landscape design, or vegetation planting lists.

(b) A maintenance plan describing how the project will be managed to maintain its conservation value.

(3) CONTROL OF PROPERTY. The grantee shall have control of the property, through ownership, easements, deed restrictions, or contracts such that the sites being restored with grant funds awarded under s. NR 193.51 (2), (3), (4), (5) or (6) remain in conservation use for 20 years unless the property is owned by the state.

NR 193.53 Eligibility for a management plan implementation project. (1) A request for an eligibility determination prior to applying for a management plan implementation grant awarded under s. NR 193.51 (6) or an aquatic invasive species control grant awarded under s. NR 193.63 (2) or (3) may be submitted to the department at any time. Requests for an eligibility determination for a future grant cycle shall be submitted at least 60 days prior to the grant application deadline. The request shall include a complete copy of the management plan, a cover memorandum describing the activities proposed for grant funding, the citation of the supporting

recommendation in the plan, a description of the process the grantee used to provide the public the opportunity to review and comment on the plan, and a summary of any comments received. The department may determine that none, some, or all of the recommendations and activities are eligible for a management grant. Once the department has approved one or more recommendations, an applicant is eligible to apply for a management plan implementation grant.

Note: The citation of a supporting recommendation in a plan may be specified using the page and line number or section where the recommendation occurs.

(2) When determining eligibility for a management plan implementation project, the department may do all of the following:

(a) Consider the extent to which the activities recommended in a plan are likely to do one or more of the following:

1. Prevent the pollution of surface water.
2. Protect surface water or aquatic ecosystems.
3. Improve surface water or aquatic ecosystems.

(b) Consider the extent to which the content presented in the plan supports the implementation of the requested management activities or alternatives.

(c) Complete the review within 45 days of the receipt of the plan, at which point the department may request additional information, or approve all, some, or none of the plan recommendations.

(d) State the basis for denying the approval of any of the plan recommendations submitted for eligibility determination, in writing and communicated submitting entity.

(3) The department may only consider recommendations for approval under this section if they are contained in a current management plan. In order to be considered a current management plan for the purposes of this subsection, a management plan shall have a completion date of no more than 10 years prior to submittal under this section, except that a

management plan for aquatic plants or aquatic invasive species shall have a completion date of no more than 5 years prior to submittal under this section.

NR 193.54 Ineligible activities. Activities not eligible for funds awarded under this subchapter include those that are necessary to comply with a regulatory action, including wetland mitigation projects or shoreland mitigation projects; routine chemical treatments or mechanical harvesting of aquatic plants, the installation of sanitary sewers; and the maintenance and operation of aeration systems, stormwater detention ponds and facilities, dams, sanitary sewers, or private onsite waste disposal systems.

SUBCHAPTER V – AQUATIC INVASIVE SPECIES CONTROL

NR 193.60 Purpose. The purpose of this subchapter is to establish procedures for awarding cost-sharing grants for integrated pest management of aquatic invasive species populations that threaten or cause adverse effects on surface waters and shorelands.

NR 193.61 Definitions. In addition to definitions provided in s. NR 193.03, the following definitions apply to this subchapter:

(1) “Established population” means a reproducing population of aquatic invasive species that is not a pioneer population.

(2) “Integrated pest management strategy” means a pest management strategy consistent with s. NR 193.65 (1)

(3) “Person” has the meaning given in s. 218.101 (26), Stats.

(4) “Pioneer population” means a small population of an aquatic invasive species in the early stages of colonization whose presence has been verified within the past 5 years. If the species is a rooted invasive aquatic plant species, the population covers an area that is less than 3 acres in size or the acreage of cover is less than 3% of the habitable area of the lake, stream reach, or wetland, whichever is greater.

(5) “Prohibited species” has the meaning given in s. NR 40.02 (41).

(6) “Restricted species” has the meaning given in s. NR 40.02 (46).

(7) “Verified” means for an aquatic invasive species to have been identified and had its location confirmed through the department’s verification and response protocol.

NR 193.62 Eligible grantees. In addition to the eligible grantees under subch. I, any person owning property on which a verified prohibited species occurs or who has a waterbody located entirely on their property in which a verified prohibited species occurs is eligible to apply for an aquatic invasive species control grant under this subchapter.

NR 193.63 Eligible projects. (1) EARLY DETECTION AND RESPONSE PROJECTS. Early detection and response projects will assist applicants in the planning and management of verified populations of prohibited species and verified pioneer populations of restricted species that are not included in a current management plan, with the following conditions:

(a) For a restricted aquatic invasive species, only one grant may be awarded under this subprogram for any one population.

(b) The grant period for early detection and response projects shall begin on the date the project is authorized by the department.

(c) Projects may include the development of a management plan, carrying out a department-approved watercraft inspection initiative in accordance with s. NR 193.31 (2), the purchase of portable boat washing stations, and other activities approved by the department.

(d) Notwithstanding s. NR 193.65 (1), aquatic invasive species control activities proposed under this subprogram are subject to department approval considering the projected risks of control activities and whether it is likely that populations can be removed or significantly reduced and maintained as a small population.

(e) The department may specify aquatic invasive species control measures, monitoring and reporting activities for a project funded with a grant awarded under this subsection.

(2) LARGE-SCALE POPULATION MANAGEMENT PROJECTS. Large-scale population management projects shall consist of aquatic invasive species control projects that will result in

long-term, multi-season suppression of one or more established populations of aquatic invasive species in a substantial portion of a lake, stream reach, or wetland. Management projects shall implement activities recommended in a management plan following a determination of eligibility under s. NR 193.53.

(3) SMALL-SCALE POPULATION MANAGEMENT PROJECTS. Small-scale population management projects shall consist of aquatic invasive species control projects that will maintain low abundance or frequency of one or more small established aquatic invasive species populations or further reduce them in size. Grant funds awarded under this paragraph may be used to manage a small populations resulting from a successful large-scale population management project. Small-scale management projects shall implement management activities with the goal of continued suppression of the target species on a localized scale, where the management actions are unlikely to affect the entire lake, stream reach, or wetland. Management projects shall implement activities recommended in a management plan following a determination of eligibility under s. NR 193.53.

(4) AQUATIC INVASIVE SPECIES RESEARCH AND DEMONSTRATION PROJECTS. Aquatic invasive species research and demonstration projects are intended to be a cooperative activity between a grantee and the department. Such projects shall be designed to increase scientific understanding of the ecological and economic implications of aquatic invasive species and their management and to assess experimental and innovative techniques for their prevention, containment and control. Procedures for applications and grant awards include the following:

(a) Proposals for research projects shall include the goals and objectives of the project, a brief description of the methods, the estimated costs and a timeline for completion.

(b) The department may solicit research proposals through a request for proposal process.

(c) Prior to each biennium the department will consult with the invasive species council on needed aquatic invasive species research.

(d) The department has sole discretion to award a grant under this subprogram and will work with the sponsor to develop a study design and grant application.

(e) No more than \$500,000 shall be awarded annually for projects under this subprogram.

NR 193.64 Ineligible activities. Activities not eligible for grant funding under this subchapter include: chemical treatment or mechanical harvesting of aquatic plants for the purpose of seasonal nuisance relief, management techniques that are not expected to result in effective control of the target species, or maintenance and operation of aeration systems or mechanical devices used to suppress aquatic plant growth. The department may deny a project if it determines the proposed management poses a significant risk to human health, nontarget organisms, or the environment; or is determined to be inconsistent with the principles of an integrated pest management strategy as specified under s. NR 193.65 (1).

NR 193.65 General conditions. (1) INTEGRATED PEST MANAGEMENT. Projects funded with a grant awarded under this subchapter shall employ an integrated pest management strategy. Integrated pest management is an ecosystem-based management strategy that focuses on long-term suppression of pests or their damage and considers all of the available pest control practices. Integrated pest management projects shall be informed by current, comprehensive information on pest life cycles and the interactions among pests and the environment. A project that employs an integrated pest management strategy shall include more than one management practice.

(2) MANAGEMENT PRACTICES. Practices eligible for inclusion in an integrated pest management strategy include prevention, biological control, biomanipulation, nutrient management, habitat manipulation, substantial modification of cultural practices, pesticide application, water level manipulation, mechanical removal, population monitoring, and other available pest control methods approved for grant-funded projects. Pesticide application may be approved only when other available pest control methods are considered, and when pesticide applications are conducted with the goal of removing only the target species.

(3) MONITORING AND ASSESSMENT. The department may require monitoring activities or an assessment of management outcomes as a condition of the grant award.

(4) PUBLIC BOATING ACCESS. Management of a prohibited species or a pioneering population under this subchapter is considered a resource protection service and do not require

public boating access under s. NR 1.91 (4). Large-scale and small-scale population management projects require minimum public boating access as set out in s. NR 1.91 (4).

SUBCHAPTER VI – LAKE MONITORING AND PROTECTION NETWORK CONTRACTS

NR 193.70 Purpose. The purpose of this subchapter is to establish eligible activities, qualifications, and procedures for the administration of contracts for the creation and support of a statewide lake monitoring and protection network. Contracts under this section will be used to provide for the promotion of lake protection activities, collection and reporting of quality-assured data on the use and condition of lakes and lake ecosystems, the protection of lakes through watercraft inspection, the early detection of aquatic invasive species, and technical assistance to persons engaging in aquatic invasive species prevention and management.

NR 193.71 Definitions. In addition to definitions provided in s. NR 193.03, the following definitions apply to this subchapter:

(1) “Designated agent” means an entity that is designated in writing by a county to implement a project under this subchapter.

(2) “Network” means the Lake Monitoring and Protection Network established by the department under s. NR 193.73 and including network participants and network coordinators.

(3) “Network coordinator” means a network participant that contracts with or volunteers for the department to provide network coordination services as outlined under s. NR 193.74.

(4) “Network participant” means a person who volunteers or receives compensation to conduct network activities under s. NR 193.76 and meets the criteria established under s. NR 193.75.

NR 193.72 Eligible grantees. Counties are eligible applicants under this subchapter. Subject to approval by the department, counties may designate an agent to implement a project within the boundaries of the county. Agent designation shall be in writing on a form designated by the department and subject to department approval. A designated agent that is approved by

the department may apply for a contract awarded under this subchapter. A county choosing to designate an agent shall submit such a request to the department for approval at least 60 days prior to the contract application deadline. A county may revoke an agent's designation for the subsequent contract term by notifying the department in writing at any time. Eligible applicants and agents shall meet all of the following qualifications:

(1) The applicant or agent has experience of successful grant administration and project completion within the last 10 years.

(2) The applicant or agent has met or exceeded grant performance and accountability standards.

(3) The applicant or agent has demonstrated the ability to meet reporting requirements and submit payment requests by the deadline.

(4) The applicant or agent has an established presence in the geographic area described in the application and provides evidence of their ability to competently perform the activities outline under s. NR 193.74

(5) The applicant or agent is an eligible surface water grant recipient under s. NR 193.02 (1).

NR 193.73 Establishing the network. The department may establish and maintain a statewide lake protection and monitoring network by conducting any of the following activities:

(1) Providing protocols for conducting network activities.

(2) Registering and providing technical support to network coordinators and network participants.

(3) Allocating funds to network coordinators according to an annual allocation plan that includes the amounts available and allocated by county.

Note: The allocation plan will be published in guidance on the Surface Water Grant Program webpage.

(4) Annually assessing statewide lake monitoring and protection needs and contracting with eligible grantees to perform activities under s. NR 193.74.

NR 193.74 Network coordinators. A network coordinator is a network participant that volunteers or contracts with the department to assist with the operation and maintenance of the network by carrying out any of the following network coordination services:

(1) Training network participants and coordinating lake monitoring, aquatic invasive species monitoring, watercraft inspection, aquatic invasive species prevention programs, and entry of data into the department's statewide database.

Note: The department's statewide database is the Surface Water Integrated Monitoring System.

(2) Purchasing and distributing supplies and equipment necessary for network activities.

(3) Providing shipping and handling of samples and specimens and laboratory analysis.

(4) Entering data, using program software or conducting other data management tasks necessary for managing network participants or tracking and reporting network activities.

(5) Analyzing, reporting, and disseminating reports and results.

(6) Providing technical assistance to a grantee or grant applicant for aquatic invasive species prevention and control.

(7) Coordinating communication among network participants.

(8) Increasing network coverage through education and outreach and expanding the capacity of network participants to conduct network activities.

(9) Conducting any network activity outlined under s. NR 193.76.

(10) Providing other services approved by the department.

NR 193.75 Network participants. (1) QUALIFICATIONS. A network participant is a person who volunteers or receives compensation to conduct network activities listed under s. NR 193.76 and who meets all of the following qualifications:

(a) The person is approved by the department or by a network coordinator to be a network participant. The decision to approve a network participant may be conditional on available resources and department monitoring priorities. A prospective network participant may seek approval by any of the following:

1. Requesting participation in the citizen lake monitoring network from the water quality monitoring coordinator in writing, indicating the waterbody they are interested in monitoring and the type of monitoring they prefer to conduct, if applicable.

2. Requesting participation in the department-approved watercraft inspection program from the watercraft inspection coordinator in writing, indicating the waterbody they are interested in monitoring, if applicable.

3. Requesting participation in a capacity other than the foregoing from a network coordinator or the department in writing.

Note: The water quality monitoring and watercraft inspection coordinators are statewide positions funded by the department and located at the College of Natural Resources, University of Wisconsin, Stevens Point, WI 54481-3897. The coordinators can be contacted by phone at (715) 346-2116 or email at uwexplakes@uwsp.edu.

(b) The person is registered with the department as a network participant, and if responsible for managing data, is also registered as a user of the department's statewide database.

Note: The department's statewide database is the Surface Water Integrated Monitoring System.

(c) The person completes a department-approved training program for any network activities they are approved to carry out, including collecting, reporting, and interpreting water quality, aquatic invasive species, or watercraft inspection data.

(d) The person has completed release of claims form 3200-101.

Note: Form 3200-101 will be provided by the department at the completion of training.

(2) RESTRICTIONS. The department may restrict participants to include only those that satisfy the following conditions:

- (a) Has access to the equipment necessary to carry out monitoring or prevention protocols.
- (b) Has access to a computer with an internet connection capable of transmitting data.
- (c) Has all safety equipment and training necessary to perform tasks in a safe manner.
- (d) Meets performance and conduct standards that may be specified in the volunteer agreement or contract.

NR 193.76 Network activities. Network participants will implement established lake monitoring and protection programs or employ other program-approved protocols to monitor and protect lake ecosystems. Network activities include any of the following:

- (1) Participating in the Citizen Lake Monitoring Network.

Note: The Citizen Lake Monitoring Network collects data on water clarity, quality, chemistry, temperature, dissolved oxygen, aquatic life and aquatic invasive species.

- (2) Collecting and reporting other chemical, biological, or physical data on lakes and lake ecosystems, including data on water levels, lake ice extent and duration, aquatic life, and shoreline habitat conditions.

- (3) Early detection monitoring for aquatic invasive species.

- (4) Participating in a department-approved watercraft inspection program.

- (5) Participating in the purple loosestrife biocontrol program.

- (6) Participating in other aquatic invasive species prevention campaigns and lake protection activities as approved by the department.

SUBCHAPTER VII – LAND ACQUISITION

NR 193.80 Purpose. The purpose of this subchapter is to establish procedures for the administration of grants for the acquisition of property in fee simple or for conservation

easements if the purchase will substantially contribute to the protection or improvement of the lake's or river's water quality or its natural ecosystem, as authorized in s. 281.71, Stats.

NR 193.81 Applicability. This subchapter applies to eligible recipients as defined in s. 281.69 (3) (a), Stats., and s. 281.70 (4) (a), Stats., that wish to apply for grants for the acquisition of property in fee or for a conservation easement to protect or improve lakes, rivers, and their ecosystems.

NR 193.82 Definitions. In addition to definitions provided in s. NR 193.03, the following definitions apply to this subchapter:

(1) "Baseline document" means a document prepared under s. NR 193.85 (4) to serve as an objective information baseline for monitoring compliance with the terms of the conservation easement funded with a grant awarded under this chapter.

(2) "Grantee acquisition match" means the dollar amount of the project cost not funded with a grant awarded under this subchapter.

(3) "Parcel" means a tract of land.

(4) "Subject property" means the property proposed for acquisition and funded in part by a grant awarded under this subchapter

NR 193.83 Eligible and Ineligible Projects. (1) ELIGIBLE PROJECTS. The department may award grants under this subchapter to eligible applicants for any of the following projects:

(a) The fee simple acquisition of all rights of a property that will protect the water quality or ecosystems of a lake or river, if the negotiations between the grantee and landowner were conducted on a willing seller, willing buyer basis.

(b) The purchase of perpetual conservation easements for some of the rights of a property that will protect the water quality or ecosystems of a lake or river if the negotiations between the grantee and landowner were conducted on a willing seller, willing buyer basis.

(2) **INELIGIBLE PROJECTS.** The department may not award grants under this subchapter for ineligible acquisition projects, including any of the following:

(a) The acquisition of property that is subject to a reversionary right or has restrictions or covenants that would prevent the property from being managed for purposes consistent with this subchapter.

(b) The acquisition of property through condemnation.

(c) The acquisition of property where the negotiations between the grantee and landowner were not conducted on a willing seller, willing buyer basis.

(d) The acquisition of property on which a dam is located.

(e) The acquisition of property acquired more than one year before a land acquisition grant application is submitted to the department.

(f) The acquisition of property for which an environmental inspection report shows that the property contains undesirable environmental conditions or liabilities or potential liability or hazards that are unacceptable to the department.

(g) Projects that do not provide for public access to the property, unless the department determines restricting access is necessary to protect wild animals, plants, or other natural features.

(h) Relocation costs.

Note: Because the department requires willing seller willing buyer negotiations, there is no use of eminent domain and there will be no need for relocation costs.

NR 193.84 Grantee acquisition match. (1) The grantee shall pay a grantee acquisition match for a grant awarded under this subchapter amounting to at least 25% of the total project cost using funds not provided by the department. The grantee shall confer with the department if the grantee acquisition match includes federal funds or other state funds to determine applicability as grantee match.

(2) Eligible sources of grantee acquisition match may include cash from the grantee; funds generated by local, non-department state or federal governments; grants or contributions from foundations, businesses, private individuals, or nonprofit organizations; property contributions from a third party if the contribution is made within 3 years of the acquisition of the property and is considered by the department to be eligible for a grant under the same program; property acquired by the grantee within 3 years of the acquisition if the property was not purchased with state funds and is considered by the department to be eligible for a grant under the same program; and property value donated by the property owner.

NR 193.84 General grant conditions when land is acquired under this subchapter. In addition to the provisions specified in s. NR 193.13, the following provisions apply when land is acquired under this subchapter:

(1) Grant funding provided by the department for fee simple or conservation easement acquisition may not exceed the maximum grant award for the subprogram under which an application is accepted. Maximum grant awards may be found in Table 1 in s. NR 193.05.

(2) The department may require the applicant to inform the landowner, in writing, that the applicant may apply for a surface water grant.

(3) The department may not make an award under this subchapter for acquisition by a local unit of government or tribe for land that is outside the boundaries of the local unit of government or tribe unless the local unit of government or tribe in which the land is located approves the acquisition.

(4) For both fee simple and conservation easement acquisitions, the grantee shall develop and submit to the department a land management plan. The plan will become part of the grant agreement and shall be recorded at the county register of deeds along with the grant agreement.

(5) The grantee shall notify the department of any change in status or purpose of the grantee as it relates to the acquisition and management of fee title or conservation easements purchased with grant funds awarded under this subchapter.

(6) If the grantee's organization dissolves, all title, rights and interest held by the grantee in and to the property purchased under this subchapter shall vest in the state, without the necessity of reentry, unless a transfer to another eligible grantee under this subchapter is approved by the department.

(7) The grantee shall agree to maintain and manage property acquired with a grant under this subchapter in accordance with the provisions, conditions, and descriptions in the grant agreement and in accordance with an approved land management plan.

(8) If the grantee fails to abide by the terms of the grant agreement and that failure results in inconsistent use of the property or facility or impairment of the conservation values, the grantee is not eligible to apply for a future grant under this chapter until the grantee corrects the impairment and the department determines that the grantee is once again operating in accordance with the terms and conditions of the original grant agreement.

(9) A grantee acquiring property through title in fee simple or rights to a property via a conservation easement shall ensure that the property provides for public access as provided in s. 281.71, Stats., unless the department determines, and documents in writing, that the property may be closed to public access to protect wild animals, plants or other natural features.

(10) The grantee shall ensure that the holder of any mortgage or land contract on conservation easement property subordinates its rights to the terms of the conservation easement before grant payment is made by the department. The grantee shall send written proof of this subordination to the department before the department issues a final payment under this subchapter.

(11) The grantee and subsequent owners of property acquired with a grant under this subchapter shall acquire and manage the property in accordance with all applicable state, local and federal laws, rules and regulations.

(12) (a) The grantee shall acknowledge the state's assistance in acquiring fee title or easement ownership of a property and provide notice of public access by placement of signs adequate to give notice. Signs shall have all of the following characteristics:

1. Area of at least 108 square inches with length and width each not less than 10 inches.
2. Durable construction with text readable by passers-by at a reasonable distance
3. Located at major access points to the acquired property
4. Text acknowledging, at minimum, the project, the surface water grant program, and the department.

Example: “This land was acquired with help from a Surface Water Grant provided by the Wisconsin Department of Natural Resources”

(b) Signs shall be maintained for the life of the conservation easement or in perpetuity in the case of fee simple land acquisition. The cost of creation and development of the initial sign, up to a cost-shared amount of \$1,000, is grant eligible. Maintenance or replacement is solely at the cost of the grantee. Signs may include the Wisconsin department of natural resources logo following written approval by the department. A grantee may add illustrative or clarifying language to the sign.

Example: “This land has been permanently protected for conservation and recreation”

(13) Upon prior notice to the grantee by the department, the grantee shall provide the department access to the property to monitor compliance with the grant agreement. In the case of conservation easements, it is the responsibility of the grantee to notify and decide with the landowner when monitoring will occur.

(14) With regard to the use and enjoyment of property purchased with grant funds awarded under this subchapter, a grantee may not discriminate against any person on the basis of age, race, creed, color, disability, marital status, conviction record, arrest record, gender, national origin, ancestry, sexual orientation, or military status.

(15) Grant funds awarded under this subchapter shall be subject to the execution of a grant agreement between the department and the grantee. The grantee shall record the grant agreement at the register of deeds in the county in which the property is located.

(16) If the grantee violates any condition of the grant agreement identified as essential pursuant to s. 281.71, Stats., and fails to correct the violation within 6 months after receiving written notification of the violation from the department, the grantee is in violation of the grant agreement, and all title, right and interest held by the grantee in and to the property shall vest in the state without the necessity of reentry or legal judgment.

NR 193.85 Additional conditions for conservation easements. All of the following additional conditions are required for projects when a conservation easement is being purchased with grant funds awarded under this subchapter:

(1) The department shall have access to property on which a conservation easement is acquired with a grant under this subchapter, in a reasonable manner upon prior notice to the grantee and the landowner, to monitor compliance with the conditions of the grant agreement. The conditions of that access shall be contained in the conservation easement agreed to by the landowner.

(2) The grantee shall prepare a conservation easement to be approved by the department. The department may require an applicant to use a standard conservation easement template when developing its easement document.

Note: Copies of the department's easement standards and guidelines are available from the DNR, Bureau of Community Financial Assistance.

(3) The grantee may not convert or approve conversion of land encumbered by the conservation easement to uses inconsistent with the easement or the grant agreement without prior approval of the department.

(4) When the grant is awarded, the grantee shall prepare a baseline document, approved by the landowner and available to the department for inspection, before grant payments are made. The baseline document shall consist of an inventory of the features of a property, including reports, maps, photographs, and other documentation that provides an accurate representation of the property at the time an easement funded with a grant under this chapter is executed.

(5) The grantee shall monitor conservation easements, both acquired and donated, at least once per calendar year, comparing the condition of the property with the baseline document, to ensure that the provisions of the conservation easements are being satisfied. The grantee shall enforce the easement provisions with landowners. The department may require the grantee to submit to the department an annual monitoring report and any enforcement measures taken.

NR 193.86 Grant calculation. (1) The department may award a grant under this subchapter for up to 75% of the total project costs, but the award amount may not exceed the maximum grant award amount per fee simple land or easement acquisition subprogram.

(2) (a) The grantee shall order and submit to the department an appraisal for fee simple or conservation easement projects, both for parcels to be purchased and parcels that will be used as grantee acquisition match. The grantee shall order appraisals in accordance with department guidelines, and the appraisal shall be subject to department review and approval. An appraisal ordered by the seller is unacceptable.

Note: The department's appraisal guidelines are available from the DNR, Bureau of Community Financial Assistance..

(b) The department may order a second appraisal if the property presents a difficult appraisal problem, if the first appraisal is unacceptable under department established criteria, or if the value of the parcel exceeds \$350,000. If only one appraisal is required for fee simple or easement land acquisition, the cost of the appraisal is grant eligible. If more than one appraisal is required, the cost of the first appraisal is entirely the responsibility of the applicants and is grant eligible; the cost of the second appraisal is entirely the responsibility of the department.

Note: The department encourages a grantee considering applying for grant funding for fee simple or conservation easement acquisition to contact the department before ordering an appraisal. Instructions provided to the appraiser will impact the scope and quality of the appraisal and, therefore, impact the grant award amount.

(3) In addition to items listed in s. NR 193.07, property donated to the grantee or purchased by the grantee without state funds may be used as a grantee acquisition match. All of the following conditions apply to donated property used as grantee acquisition match:

(a) The purchased or donated match property must also be eligible for grant funding under this subchapter.

(b) With approval of the department, a grantee may use a portion of the accepted appraised value of a donated property as part or all of the grantee acquisition match of the acquisition cost of the subject property. The value of contribution of property shall be determined by appraisal as specified in the department's appraisal guidelines.

(c) The amount that may be used for grantee acquisition match shall equal the fair market value as determined by the department for an accepted appraisal. The grant payment may not exceed the amount of cash needed for the purchase. The value of the donated property not used as grantee acquisition match in the original project may not be used by the grantee as grantee acquisition match on any subsequent application under this chapter.

Example: Presume an applicant applies to protect a lake with a fee simple land acquisition funded with a land acquisition grant. Presume the property has a value of \$100,000 as determined by a department-approved appraisal. The surface water grant program requires a 25% grantee acquisition match, bringing the maximum grant award to \$75,000, with \$25,000 provided by the grantee as grantee acquisition match. Presume further that the applicant will use a donated property as part of the grantee acquisition match. Presume the department-approved value of the donated property is \$70,000 and that miscellaneous eligible acquisition costs (including closing costs, attorney's fees and appraisal costs) amount to \$10,000. The maximum grant award for the proposed acquisition would be calculated as \$135,000. However, the applicant cannot receive a grant that exceeds amount of actual cash outlay. In this example, the actual cash outlay is the subject property value plus the eligible acquisition costs, so the maximum grant award is capped at \$110,000.

$$(\$100,000 + \$10,000 + \$70,000) \times 75\% = \$135,000$$

Maximum grant award is capped at \$110,000

(d) Grantee acquisition match property shall be encumbered in perpetuity by a grant agreement and subject to the same conditions and restrictions that would encumber fee simple or conservation easement land acquired with a grant awarded under this chapter.

NR 193.87 Grant award. (1) The department shall use a grant agreement to award any funds under this subchapter. A grant agreement is not binding until signed by the department and the applicant and returned to the department by the specified deadline. Disbursement of

grant funds are not possible until the signed grant agreement is returned to the department. A grant application approved for funding by the department becomes part of the grant agreement by reference.

(2) A grant awarded under this subchapter may be terminated by the department for violation of any term or condition of the grant agreement. If the grant is terminated, any interest in or title to the property shall vest in the state.

(3) When a grantee is purchasing either fee simple or conservation easement property, the department may distribute 100 percent approved land value at escrow closing the entire grant award to a non-interest-bearing escrow account, subject to department-approved title insurance commitment, to be released upon completion of an insured closing and conveyance of the property to the grantee. If the closing has not occurred within 15 days from the date when funds were distributed to the escrow account, the department shall notify the escrow agent to return the grant funds to the department.

NR 193.88 Grant agreements for acquisition projects. (1) In addition to any grant agreement conditions identified under s. NR 193.13, all of the following essential conditions shall be added to a grant agreement awarded under this subchapter:

(a) The grantee may not convert or allow to be converted any use of the property other than that specified in the grant agreement without the prior written approval of the department.

(b) The grantee may not convey any interest in the property to a third party nor allow any leases, permits, or encumbrances without the prior written approval of the department. The department may take actions necessary to avoid the placement of liens, judgments or encumbrances against the property.

(c) When a property transfer from the grantee to a third party is approved by the department, the party to whom the property is transferred shall be an eligible applicant under this chapter and shall agree to assume the responsibilities and limitations of the terms and conditions of the grant agreement.

(d) The grantee must make property tax payments on time and keep taxes current unless property taxes are not required.

(e) The grantee may not close a property acquired with a grant awarded under this chapter to the public unless the department determines, and documents in writing, that closure is necessary to protect species of plants, wild animals, or other natural features.

(f) The grantee shall manage the property in accordance with the land management plan approved by the department.

(2) The grant agreement shall recognize the state's interest in the property acquired by the grantee, for both the subject property and donated match property when applicable, and ensure that the grantee provides adequate land management and maintenance, or, in the case of easements, monitors and enforces the conditions of the easement, in accordance with provisions contained in the grant agreement and in a land management plan approved by the department. The grantee shall declare the state's interest in the property on the warranty deed or other appropriate instrument of conveyance recorded in the appropriate county register of deeds office, using language provided by the department. The grant agreement shall be recorded in the office of the register of deeds in the appropriate county.

(3) All obligations, terms, conditions and restrictions imposed by the grant agreement shall be deemed to be covenants and restrictions running with the property and shall be effective limitations on the use of the property from the date of recording of the grant agreement and shall bind the grantee and all successors and assigns in perpetuity.

(4) The department may include additional conditions and restrictions in the grant agreement.

NR 193.89 Conversions. If a grantee converts property to an inconsistent use not approved by the department, the grantee shall return the property to the use specified in the grant agreement within 6 months written notification of the inconsistent use by the department, or the grantee shall replace the property with a different property that is approved by the department. The department's approval of replacement property shall include consideration of at least equal value, acreage, and benefit consistent with the Surface Water Grant Program for which funding was originally approved.

SECTION 8. NR 195 is repealed.

SECTION 9. NR 198 is repealed.

SECTION 10. EFFECTIVE DATE. This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

SECTION 11. BOARD ADOPTION. This rule was approved and adopted by the State of Wisconsin Natural Resources Board on [DATE].

Dated at Madison, Wisconsin _____.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

BY _____

Preston D. Cole, Secretary

(SEAL)