

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date 2/12/19
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) NR193	
4. Subject Surface Water Grant Consolidation	
5. Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	6. Chapter 20, Stats. Appropriations Affected
7. Fiscal Effect of Implementing the Rule <input checked="" type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Could Absorb Within Agency's Budget	
8. The Rule Will Impact the Following (Check All That Apply) <input type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input checked="" type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input type="checkbox"/> Small Businesses <b>(if checked, complete Attachment A)</b>	
9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$minimal [\$0]	
10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11. Policy Problem Addressed by the Rule The Bureaus of Water Quality and Community Financial Assistance propose to repeal five related administrative code chapters that govern three cost-sharing grant programs and recreate one consolidated code chapter.  The proposed ch. NR 193, Wis. Adm. Code, will create a comprehensive surface water grant program. It will establish and clarify policies to improve customer service and satisfaction, improve administrative consistency and efficiency, and create better and more cost-effective environmental outcomes that serve local needs and advance department management objectives for state surface waters. 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.  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, 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 (AIS) .  The statutes and current administrative codes for these grant programs have evolved incrementally over 26 years and currently provide over \$6 million a year for locally-led surface water planning and management. 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.	
12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.	

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A series of regional listening sessions was conducted during the summer of 2016, in Fitchburg, Green Bay, Rhinelander, Spooner, Stevens Point and Waukesha. Comments from listening sessions were considered in the drafting of ch. NR 193. We held a rivers-specific listening session at the River Alliance headquarters in Madison, WI in fall of 2018. County AIS coordinators were invited to contribute ideas to a contract funding allocation model for the proposed Lake Monitoring and AIS Prevention Network at two meetings in the spring and fall of 2018.

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13. Identify the Local Governmental Units that Participated in the Development of this EIA.

No local government units were involved in this draft EIA. The department will provide a 14-day public comment period that will allow all affected parties to comment on this analysis. Comments received during that period will be considered in the development of the final Economic Impact Analysis.

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14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The proposed ch. NR 193 consolidates three existing programs under a single rule, thus streamlining and uniting administration into one clear set of procedures and policies. In this respect, the rule is likely to improve clarity, efficiency, performance, and thus cost incurred by grantees.

NR193 introduces a flexible method of cost containment for projects proposed for funding. Because state funds are awarded and used by grantees, it is reasonable for the DNR to require that grantees control project costs and implement projects in the most cost-effective way possible. At present under Wisconsin law, cities, towns, villages and counties are required to control project costs through "bidding" as specified in ch. 66, Wis. Stats. To assist municipal grantees with bidding requirements, the DNR has published on its grant webpages - for many years - the "Procurement Guide for Local Governments Receiving Grants from the WI Department of Natural Resources," a plain-English guide written largely by DNR attorneys. In ch. NR 193, the DNR is increasing procurement flexibility for municipal grantees by identifying additional methods they may use to ensure projects are implemented in a cost-effective manner. Those additional methods are collectively referred to as "cost-containment measures." Several other grant programs administered by the DNR allow grantees to select from a menu of cost-containment measures, including the Targeted Runoff Management and the Knowles-Nelson Stewardship grant program. Applicants may choose the form of cost-containment that is best suited to their needs. The requirement for grantees to use a cost-containment measure may be new to some non-municipal grantees and their consultants. DNR grants staff remain available to assist these grantees in understanding and using cost-containment measures.

The proposed ch. NR 193 will continue to support activities to plan and manage surface waters. The programs are being consolidated but are not changing fundamentally. Partners that carry out eligible program activities will continue to receive state funds if they submit strong applications for funding. NR193 does not propose a change in how the program is funded. Because the Surface Water Grant Program is one that distributes cost-sharing funds to partners and associates, the fiscal impact of the rule will continue to be positive. We are unaware of any indirect effects that ch. NR 193 may have on grantees that use funds from the DNR to support their work.

Based on best professional judgement aligning program funding structure and best management practices designed to achieve program protection and restoration priorities, grant award caps for some activities are changing. (a) Aquatic invasive species planning projects currently have a cap of \$150,000 per project. Under ch. NR 193, that cap will be reduced to \$25,000. Prior high-value and high-cost projects have supported county AIS coordinators; these activities will now be better-served under the proposed contract program that will provide cost-sharing funds, thus eliminating the need for county coordinators to participate in a time-consuming yearly competitive grant cycle. (b) AIS early detection caps will increase by \$5,000. (c) The cap for AIS control grants will decrease by \$25,000, but the program now includes a new small-scale population management category with a cap of \$50,000. The overall level of funding for the entire

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program will not change, but there are alterations in the funding structure in support of sound ecosystem management. This is a voluntary program; there is no associated cost of compliance with the proposed ch. NR 193. Cost-share rate changes may affect the status quo funding amounts provided by the department. Surface Water grants support planning and management activities for lakes, wetlands and rivers. Cost-share rates have been consolidated such that each "planning" program requires a 33% contribution by the grantee, and each program under "management" requires a 25% grantee contribution. Thus, some programs that were administered separately under the current program have altered cost-share rates. For example, under the current program, aquatic invasive species prevention and planning projects received cost-sharing of 75%, requiring a 25% grantee contribution. Under ch. NR 193, all planning projects will require a 33% grantee contribution. The result is that available future grant funding will be approximately the same as in the current grant cycle, but in FY19, for example, \$118,712 more would be required as grantee contribution from all successful applicants.

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#### 15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Chapter NR 193 requires unison under a consistent set of administrative policies. This will allow us to provide straightforward guidance to our partners that currently participate across diverse subprograms within our current system. As the program currently stands, differences are a function of when the sub-program was created and appear to be arbitrary. Consolidation will allow the Department to streamline and make consistent grant award, reimbursement and reporting procedures. In addition, consolidation will allow us to update rule practices to current standards and allow us to integrate statutory changes in related programs to better serve our customers. Changes to consolidate lake and river and AIS activities will allow the Department to administer a modern program that is better aligned with the idea of "watershed management," which is consistent with sound science and likely supportive of better water quality outcomes. Not updating rule content would mean that our procedures remain out-of-date and require a complicated and sometimes confusing navigation of five separate, but very similar, administrative rules.

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#### 16. Long Range Implications of Implementing the Rule

The long-range implication of this rule is the same as the short-range implication. The rule will allow for consistent administration of the state's Surface Water grant programs and allow us to maintain flexibility in determining program priorities. This will lead to a more nimble and responsive program that is better-suited to address emerging and future environmental challenges, which will result in net economic gain as reflected in the protection and enhancement of ecosystem services provided by freshwaters.

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#### 17. Compare With Approaches Being Used by Federal Government

Section 319 of the Clean Water Act (CWA) establishes the Nonpoint Source Management Program that addresses state and local nonpoint source pollution control efforts. Under Section 319, states, territories and tribes receive grant assistance that supports a wide variety of activities including technical assistance, financial assistance, education, training, technology transfer, demonstration projects and monitoring to assess the success of specific nonpoint source implementation projects. The objective of the CWA [33 U.S.C § 1251 et. seq.] is to restore and maintain the chemical, physical, and biological integrity of the nation's waters. As part of achieving this objective, CWA section 319 [33 U.S.C. § 1329] directs states to develop a management program for controlling pollution from nonpoint sources to navigable waterways that identifies best management practices to be undertaken to reduce pollution and financial assistance programs to achieve implementation of best management practices [See, 33 U.S.C §1329(b)(1) and (b) (2) (A) & (B)]. 33 U.S.C § 1329 (h) (1) requires the US Environmental Protection Agency (EPA) to make grants available to states for implementing such a nonpoint pollution control program. 33 U.S. Code § 1329 (h) (3) limits federal grants to states to a maximum of 60 percent of the cost incurred by the state.

Proposed changes are intended to assist the Department in implementing the goals of the CWA and U.S. Fish and Wildlife Service (USFWS) aquatic invasive species regulations. Under plans filed with the USEPA and USFWS, federal funding received by the Department may be awarded to third parties as grants and state funds awarded as grants may count as state match to federal funds the Department receives.

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The Federal Environmental Quality Incentives Program ("EQIP") provides technical and financial assistance to facilitate

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the adoption of agricultural conservation practices that address natural resource concerns, including those related to water quality. 16 U.S. Code 3839aa-2 allows for payments to agricultural producers that enter into contracts to implement conservation practices for up to 75 percent of the costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training; 100 percent of income foregone by the producer; and in such the cases where both of these apply, the sum of these two amounts.

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#### 18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

##### 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 AIS education, planning and prevention, for AIS control, and for watercraft inspections. Due to funding limitations, Minnesota is not accepting applications in 2018.

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 applications 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 control projects, including wastewater treatment system improvements, storm water treatment projects, and nonpoint source pollution control projects. Funding levels per year depend on federal funding. The Strategic Water Quality Initiatives Fund provides low-interest loans for water pollution control, 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

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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.

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19. Contact Name

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20. Contact Phone Number

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**ATTACHMENT A**

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1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

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2. Summary of the data sources used to measure the Rule's impact on Small Businesses

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3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

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4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

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5. Describe the Rule's Enforcement Provisions

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6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
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