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(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2003-04

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules...

COMMITTEE NOTICES ...

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INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

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 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
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- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (August 2012)

Senate

Record of Committee Proceedings

Committee on Environment and Natural Resources

Clearinghouse Rule 02-060

Relating to recycling efficiency incentive grant.
Submitted by the Department of Natural Resources.

January 24, 2003 Agency modifications referred to committee


February 6, 2003 **EXECUTIVE SESSION**

Present: (5) Senators Kedzie, Stepp, Zien, Wirch and Risser
Absent: (0) None.

Moved by Senator Kedzie, seconded by Senator Zien, to object to
s. NR 549.08 (3) (a) 2. and (4) (a) 4. and 5 of **Clearinghouse Rule
02-060.**

Ayes: (3) Senators Kedzie, Zien and Stepp
Noes: (2) Senators Risser and Wirch
Absent: (0) None.

MOTION TO OBJECT TO s. NR 549.08 (3) (a) 2.
and (4) (a) 4. and 5 OF CLEARINGHOUSE RULE
02-060 RECOMMENDED, Ayes 3, Noes 2,
Absent 0



Dan Johnson
Committee Clerk

Clearinghouse Rule 02-060

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD CREATING RULES

The Wisconsin Natural Resources Board proposes an order to create ch. NR 549 relating to recycling efficiency incentive grants.

CF-30-02

Analysis Prepared by the Department of Natural Resources

Statutory Authority: s. 287.235, Stats.

Statute Interpreted: s. 287.235, Stats.

This rule creates a Recycling Efficiency Incentive Grants (REI Grants) Program that establishes criteria and procedures for the awarding of additional grants to responsible units to reward or encourage recycling efficiency.

The department administers Wisconsin's Recycling Grants Program under s. 287.23, Stats., for planning, constructing, and operating a recycling grant program. This program partially reimburses responsible units for their efforts to collect, sort and market recyclable material and thereby conserve landfill space, prevent the introduction of hazardous material into Wisconsin's landfills, and ensure better stewardship of the environment, protecting public health, the quality of the environment and to conserve resources and energy.

The '01-'03 Budget Bill created an additional grants program which provides incentives for efficient recycling programs to responsible units. The REI Grants Program rewards and encourages responsible units that either serve large communities or cooperate in the provision of services -- or contracting for services -- by either reducing administration and contract costs, or increasing the quality or scope of services provided through a recycling program, or both.

SECTION 1 Chapter NR 549 is created to read:

CHAPTER NR 549 RECYCLING EFFICIENCY INCENTIVE GRANTS TO RESPONSIBLE UNITS

NR 549.01	Purpose.
NR 549.02	Applicability.
NR 549.03	Definitions.
NR 549.05	Eligibility of Applicant.
NR 549.07	Eligible and Ineligible Costs.
NR 549.08	Grant Application.
NR 549.09	Departmental Review.
NR 549.11	Distribution of Grant Assistance.
NR 549.12	Grant Recipient Accountability.
NR 549.14	Interpretation of Chapter.
NR 549.15	Variances.
NR 549.17	Termination.
NR 549.18	Enforcement.

NR 549.01 Purpose. The purpose of this chapter is to establish rules and procedures under s. 287.235 (1), Stats., for the implementation and administration of a grants program which provides

financial assistance to responsible units that have achieved efficiency in their recycling programs through the criteria or methods provided in this chapter.

NR 549.02 Applicability. This chapter applies to all applicants and recipients of recycling efficiency incentive grants under s. 287.235, Stats. This chapter does not apply to waste reduction and recycling demonstration grants, under s. 287.25, Stats., nor to recycling grants under s. 287.23, Stats.

NR 549.03 Definitions. In this chapter:

- (1) "Department" means the department of natural resources.
- (2) "Effective recycling program" means a solid waste management program that includes all of the components specified in s. 287.11(2), Stats.
- (3) "Population" has the meaning specified in s. 287.23 (1) (c), Stats.
- (4) "Recycling center" means a facility that accepts source separated materials for processing and marketing.
- (5) "Responsible unit" has the meaning specified in s. 287.01(9), Stats.

NR 549.05 Eligibility of applicant. (1) **ELIGIBLE APPLICANTS.** Any responsible unit that has been determined to have an effective recycling program shall be eligible to apply for assistance through this chapter.

(2) **REVIEW OF GRANT APPLICANT'S OR RECIPIENT'S ELIGIBILITY.** The department may review a responsible unit's eligibility for a recycling efficiency incentive grant at any time.

NR 549.07 Eligible and ineligible costs. (1) **ELIGIBLE COSTS.** The grant applicant's recycling program costs, defined as the costs of administering the program minus those proceeds from the sale of recycled material, that are reasonable and necessary for planning, constructing or operating a recycling program are eligible for grant assistance. Eligible costs may include, but are not limited to:

- (a) The costs of planning, including consultant fees.
- (b) Construction costs, including capitalized interest, professional services of an attorney, and engineering services for design, construction and construction inspection.
- (c) Training, salaries and fringe benefit costs of personnel.
- (d) The purchase of necessary supplies.
- (e) Capital purchases for:
 1. Equipment costing \$1,000 or more and with an expected life of 3 or more years will be funded on an amortized basis.
 2. Land, including site acquisition at fair market value and site preparation costs.
- (f) The allocable cost of using equipment not purchased with grant moneys, as provided under s. NR 542.10 (1) (b) 3.
- (g) Costs of collecting recyclables, marketing and transporting recyclables to market.
- (h) Public education and enforcement costs.

(i) Written contracts entered into by responsible units to obtain services necessary for an effective recycling program.

(j) The following costs of a solid waste facility designed to recover recyclables from post-consumer waste:

1. All costs that can be directly attributed to the recycling component.

2. The proportionate share of the remaining costs as calculated as a proportion of recovered recyclables to total waste, by weight.

(k) Costs of documenting how solid waste that is generated in the grant applicant's region and is not separated or recovered for recycling will be managed, as required by s. 287.11 (2) (ew), Stats.

(2) INELIGIBLE COSTS. Costs not directly associated with or not necessary for planning, construction or operation of an effective recycling program are not eligible for grant assistance. Ineligible costs include, but are not limited to:

(a) Costs incurred either prior to January 1 or after December 31 of the calendar year 2 years prior to the year for which the grant is awarded.

(b) The costs of collecting and disposing of municipal solid waste not separated for recycling, except for costs described in sub. (1) (k).

(c) Fines and penalties due to violations of, or failure to comply with, federal, state or local laws, regulations, rules and ordinances.

(d) Ordinary operating expenses of local government, such as salaries and expenses of a mayor or city council members that are not directly related to the recycling program.

(e) Interest or finance charges.

(f) Costs for which payment is received under another federal or state financial assistance program.

Note: Costs for which payment is received by a responsible unit under s. 287.23, Stats., are costs which are ineligible for a recycling efficiency incentive grant under this chapter.

(g) Costs incurred in a contract that creates a real or apparent conflict of interest. An apparent conflict of interest arises when an official or employee of a responsible unit participates in the selection, awarding or administration of a contract supported by this program. An apparent conflict of interest includes, but is not limited to:

1. Situations where the official or employee of the responsible unit, or his or her business partner or immediate family member, has an ownership interest in the firm selected for activities funded in part by a recycling efficiency incentive grant.

2. Situations where any person identified in subd. 1. receives any contract, gratuity or favor from the award of the contract for a recycling efficiency incentive grant.

(h) The purchase of plastic containers for the collection of recyclable materials, unless the recycled content of the plastic containers is at least 25% by weight.

NR 549.08 Grant application. (1) APPLICATION METHOD. An eligible applicant, as described in s. NR 549.05 (1), may apply for a grant for the purposes specified under s. NR 549.02. Applicants

shall submit applications on forms provided by the department and shall provide the information required by the remainder of this section.

Note: Recycling Efficiency Incentive Grant application forms may be obtained as follows:

Mailing Address:

Department of Natural Resources
Community Financial Assistance Bureau
P. O. Box 7921
101 S. Webster Street
Madison, Wisconsin 53707-7921

Phone:

608-266-7555

DNR Web Site:

www.dnr.state.wi.us

(2) STATEMENT OF RECYCLING EFFICIENCY. Applications pursuant to this section shall indicate that at least one of the recycling program efficiencies in par. (a) or (b) achieved:

(a) *Operational status or size.* The responsible unit meets one or more of the following criteria:

1. Two or more responsible units have consolidated into a single responsible unit, as defined in s. 287.01(9), Stats., under the provisions of s. 287.09(1), Stats., on or after March 1, 2003.

2. The responsible unit that was formed by the consolidation of a combination of 2 or more prior responsible units as defined in s. 287.01 (9), Stats., as a consolidated responsible unit, that complies with s. 287.09, Stats., where one responsible unit joined the consolidated responsible unit between January 1, 1999 and February 28, 2003.

Note: Section 287.09, Stats., provides for the formal consolidation of responsible units by agreements under s. 66.0301, Stats.

3. The responsible unit is a county. A county shall be eligible for the a grant under this chapter not more than once under this criterion.

4. The responsible unit is an entity other than a county with a population of 50,000 or more. A responsible unit shall be eligible for a grant under this chapter not more than once under this criterion.

(b) *Written cooperative agreements.* 1. Responsible units that have entered into a written cooperative agreement with at least one other responsible unit for direct recycling services by or for the responsible unit, or for private vendor services to be shared jointly by the participating responsible units to the agreement. The cooperative agreement shall address the following recycling needs:

- a. Comprehensive program planning.
- b. Collection and transportation of recyclables.
- c. Sorting recyclables at a materials recovery facility.
- d. Educational efforts about waste reduction, reuse and recycling.

2. When a responsible unit enters a cooperative recycling agreement for joint services or private vendor services, it shall be entered into by the applicant with the expectation either of a reduction in program costs or that the cooperative agreement will provide an increase in the scope or quality of recycling services. Cooperative agreements shall include an effective date, a brief description of the responsibilities of all parties, and a statement of expectations that costs will be reduced, funds saved, or that the scope or quality of the responsible unit's recycling program will be improved.

3. All cooperative agreements shall be made by an agent of the responsible unit who has authorization under s. 66.0301, Stats., from the responsible unit's local governing body to enter the responsible unit into an cooperative agreement.

[Drafter's Note: The department will examine ways to allow eligibility for operational and managerial efficiencies—those efforts made by a single responsible unit to improve efficiency. Due to the compressed time schedule for promulgating the current rule, the department did not have time to thoroughly examine the issue. If the department decides to expand eligibility it will go through the rule making process again to amend this rule.]

(3) PROOF OF COOPERATIVE AGREEMENT. If an application for a recycling efficiency incentive grant under this chapter claims recycling efficiency as a result of a written cooperative agreement pursuant to sub. (2) (b), the application shall document this as follows:

(a) Show that a responsible unit, other than a county, participating in a cooperative agreement has authorized the responsible unit to participate in the cooperative agreement.

(b) County responsible units shall provide proof of authorization from the county's governing body, but need not provide proof of authorization from each municipality within the jurisdiction of the county.

(4) AUTHORIZING RESOLUTION. All applicants for recycling efficiency incentive grants shall submit to the department an authorizing resolution that designates a representative of the responsible unit as the person authorized to submit an application for financial assistance under this chapter and handle all grant actions. Prior resolutions on file with the department for other recycling grant programs in prior years do not satisfy this requirement. No application may be considered complete until the resolution is submitted.

(5) SIGNATURE OF RESPONSIBLE PARTY. All applications for financial assistance under this chapter shall be signed by the person designated in the authorizing resolution.

NR 549.09 Departmental review. (1) COMPLETE APPLICATIONS REQUIRED. The department shall review all applications submitted by eligible responsible units by the deadlines listed in sub. (3) (a) for completeness. For an application to be deemed complete by the department, all portions shall be correctly and fully answered or provided, and an authorized representative shall sign the application.

(2) REQUIREMENTS FOR THE FIRST GRANT PERIOD. (a) Responsible units claiming, as a measure of recycling efficiency, a consolidation pursuant to s. NR 549.08 (2) (a) 2. which was entered into after January 1, 1999 and before February 28, 2003, county responsible unit status pursuant to s. NR 549.08 (2) (a) 3. or an entity other than a county with a population of 50,000 or more pursuant to s. NR 549.08 (2) (a) 4. may do so only for the first calendar year 2003 grant awards.

(b) Responsible units claiming cooperative agreements as a measure of recycling efficiency pursuant to s. NR 549.08 (2) for the first grant awarded under this chapter may only do so if those agreements were entered into after January 1, 1999, and before February 28, 2003. Cooperative agreements entered into before January 1, 1999, do not meet the requirements of this chapter. Responsible units claiming cooperative agreements as a measure of recycling efficiency after the first grant awarded under this chapter may do so only if the cooperative agreement was entered after March 2, 2003.

(3) REQUIREMENTS FOR GRANT AWARDS. (a) Each application for financial assistance under this chapter shall indicate that efficiency in the effective recycling program had been implemented in the year immediately prior to the year in which grant funds are being requested and that the efficiency is an increase over efficiency claimed in the previous grant year. In addition, the following limitations shall apply:

1. During the grant period for which an application shall be received by March 1, 2003, the claimed efficiency shall have been implemented during the period between January 1, 1999 and February 28, 2003.

2. During the grant period for which an application shall be received by October 31, 2003, the claimed efficiency shall have been implemented during the period between March 1, 2003 and October 30, 2003.

3. During the grant period for which an application shall be received by October 31, 2004, the claimed efficiency shall have been implemented during the period between October 31, 2003 and October 30, 2004, and shall have been in place before April 30, 2004.

4. During the grant period for which an application shall be received by October 31, 2005 and all subsequent grant periods, the claimed efficiency shall have been implemented during the period between October 31 of the previous year and October 30 of the year in which the application is made, and shall have been in place before April 30 of the year in which the application is made.

(b) An efficiency in an effective recycling program shall be shown by either of the following.

1. a. The probability of a reduction in eligible costs for the year or an increase in recycling materials sales revenues as described in subd. 2. a.

b. An increase in the quality or scope of the program for the year in which the responsible unit attributes the efficiency measures as provided as described in subd. 2. b.

2. a. A reduction in eligible costs means an expected reduction in eligible costs or increase in revenues from the expenses or revenues of the previous year, and may occur on either a program-wide basis, or in one or more component areas of the responsible unit's recycling program. These include comprehensive program planning, collection, sorting, processing, marketing or education. A reduction in eligible costs cannot be as a result of additional financial assistance received from the state.

b. An increase in the quality or scope of the program means an increase in the quality or scope of the program from the previous year, and may occur on either a program-wide basis, or in one or more areas of the responsible unit's recycling program. These include comprehensive program planning, collection, sorting, processing, marketing or collection. Claims of efficiency shall be substantial and not marginal or lacking a sound basis.

Note: The department expects to review applicant claims of efficiency on a periodic basis. Activities that increase a responsible unit's recycling program quality or scope may include the following:

1. Changing collection from drop-off sites to curbside pick-up where recyclable items are collected by either another responsible unit or by a private vendor contracted jointly with another responsible unit.
2. Coordinated program delivery through joint comprehensive planning or educational efforts by a single planning unit for 2 or more responsible units.
3. Collection of a greater amount or type of plastic containers by 2 or more responsible units made possible through sorting provided by a responsible unit or by vendors jointly contracted by the responsible units.
4. Provision of new services by responsible units or joint vendor contracting.
5. Organizing coordinated program delivery in a specific geographic area with a reduction in eligible costs.

Efficiencies considered to be substantial may increase recycling collection or participation rates, environmental benefits, responsible unit revenues, or reduce environmental degradation and program operating costs.

Examples of increases in the quality or scope of the program that are marginal or without a sound basis may include:

1. Sharing equipment on a free or at-cost basis between responsible units without a resulting increase in the collection of recyclables in at least one of the responsible units.

2. An educational campaign which does not reach the majority of the residents of the responsible units and is conducted without a reasonable expectation of increasing awareness of recycling issues and citizen participation in the recycling programs.

3. An increase in efficiency in a recycling activity category not previously the subject of an effort by the responsible unit to achieve efficiency shall qualify as an increase in efficiency only if the increase does not duplicate an effort previously undertaken under this chapter.

NR 549.11 Distribution of grant assistance. (1) FIRST GRANT PERIOD. Recycling efficiency incentive grants provided under this chapter shall first be provided in calendar year 2003.

(2) DETERMINATION OF GRANT AMOUNT. The department shall award a grant to each responsible unit that submits a complete application that is approved by the department. The amount of the grant shall be determined as follows:

(a) The per capita amount shall be calculated by dividing the funds appropriated for recycling efficiency incentive grants by the sum of the population of all responsible units whose applications meet the requirements of s. NR 549.08.

(b) The grant amount shall then be determined by multiplying the per capita amount times the population of the responsible unit.

(c) Notwithstanding pars. (a) and (b), a grant under this chapter plus a grant under s. 287.23, Stats., may not exceed the net eligible expenses identified under s. 287.23 (3) (b), Stats., that the responsible unit incurred in the year 2 years before the year for which the grants are made.

(d) Funds available to the department for grants under this chapter shall be distributed to all eligible applicants until either all available funds have been depleted or until all eligible applicants have received their statutory maximum awards. Grants under this chapter are subject to the availability of funds provided to the department. A grant under this chapter plus a grant under s. 287.23, Stats., may not exceed the eligible costs identified under s. 287.23 (3)(b), Stats., that a responsible unit incurred in the year 2 years before the year for which the grants are made.

(3) AWARD NOTIFICATION. The department shall notify successful applicants by issuance of a grant award. Accepting funds provided through the grant award shall subject the responsible unit to all provisions of this chapter and all terms and conditions contained in the grant award.

NR 549.12 Grant recipient accountability. (1) RECORDS MANAGEMENT. Each responsible unit shall maintain an accounting system that accurately reflects all fiscal transactions, incorporates appropriate controls and safeguards, and provides clear reference to source or original documents.

(a) *Accounting procedures.* Financial schedules and statements filed with grant applications and payment requests shall be based on records maintained under generally accepted accounting principles which meet the following minimum requirements:

1. Program accounts shall separate grant receipts and eligible expenditures from those allocable to other programs and activities.

2. Receipts and expenditures shall be listed in sufficient detail to provide a basis for accurate and complete program reporting.

3. All program receipts shall be identified in sufficient detail to reflect their source and purpose.

4. Supporting records for all program expenditures shall be itemized in detail to indicate the nature and appropriateness of each disbursement. Proof of payment, such as canceled checks or receipts from vendors, shall be maintained.

5. Time and attendance records describing the work performed, specifying project hours worked by day, signed by the employee and bearing evidence of management approval, shall be maintained, along with computations showing hourly pay rates and allocations of fringe benefits.

(b) *Fiscal controls.* 1. Any consultant, construction or service contract totaling \$10,000 or more annually shall be covered by a formal contract or agreement specifying financial terms, contract duration and services to be rendered.

2. Acquisition of real property shall be in accordance with state guidelines for preparation of appraisals and relocation assistance.

Note: Land acquisition and appraisal procedures can be obtained from the department's district recycling specialist.

3. Allowable rates for use of a responsible unit's own equipment not purchased with grant monies shall be limited to the county-wide rates established annually by the department of transportation. Allowable costs for the use of equipment, for which the department of transportation rates are not available, may be based on the grant recipient's calculation of operating the equipment attributable to recycling activities.

Note: County-wide rates established by the department of transportation can be obtained from the grant recipient's county highway department.

(2) **RECORDS RETENTION AND AUDITING.** All responsible units receiving grant funds are subject to audit by the department and shall retain all records pertaining to their programs for 3 years after the year in which they received the recycling efficiency incentive grant.

NR 549.14 Interpretation of chapter. (1) DISPUTE CONSIDERATION. Any disputes regarding the interpretation of this chapter shall be decided by the department based upon whether an increase in efficiency can be inferred through a probability of either a reduction in eligible costs for the year or an increase in recycling materials sales revenues, or an increase in the quality or scope of the program for the year in which the responsible unit attributes the efficiency measures. This consideration shall be made in accordance with all applicable state and federal law.

(2) **DISPUTE RESOLUTION.** In the event that a dispute arises between the department and the grant recipient, either party may request a conference between the department's director of the bureau of community financial assistance and the grant recipient, or designee, to resolve the dispute.

(3) **DECISION OF THE DEPARTMENT.** Except as otherwise provided by law, any dispute arising as a result of a grant provided under this chapter shall be decided in writing by the department. The department shall serve personally or by mail, certified mail, return receipt requested, a copy of such decision upon the grant recipient.

NR 549.15 Variances. The department may approve variances from non-statutory requirements of this chapter upon written request of the grant recipient. Approval of variances will be based on the department's determination that variances for good cause, to encourage recycling or to accomplish the objectives of this chapter. Before granting a variance, the department shall take into account factors such as good cause, circumstances beyond the control of the grant recipient and financial hardship.

NR 549.17 Termination. (1) ACTION TO INITIATE. The department or the grant recipient may initiate the termination of a grant award provided under this chapter with 30 days advance written notice to the other party. Notices of termination shall be served on the other party personally or by mail.

(2) DEPARTMENT ACTION. (a) Any action undertaken by the department to terminate a grant award shall include the effective date of termination of the grant award, the basis for settlement of award termination costs, and the amount and date of payment of any sums due either party.

(b) The department may terminate awards, in whole or in part upon a finding of one of the grounds specified in par. (c) and in accordance with the following procedure:

1. The department shall attempt to consult with the grant recipient prior to initiating any termination action. After the department has received and considered the views of the grant recipient, or 30 days after the grant recipient has been notified of the department's intent to terminate the recycling efficiency incentive grant, the department may terminate the award in whole or in part.

2. Any termination action taken by the department shall be made in writing and shall state the reasons for termination.

(c) The department may terminate a grant, in whole or in part, if the department determines any of the following:

1. There has been no substantial performance under the terms of the grant by the grant recipient, without good cause.

2. There is clear and convincing evidence that the grant was obtained by fraud.

3. There is clear and convincing evidence of gross abuse or corrupt practices in the administration of the grant.

(3) GRANT REFUND. Upon termination, the grant recipient shall refund to the department all funds provided by the department under this chapter that have not been spent as of the date of termination written approval from the department, except an amount as may be required to meet commitments which had become enforceable prior to the date of termination. The grant recipient shall reduce the amount of outstanding commitments as much as possible and remit to the department any uncommitted balance of grant funds awarded. A grant recipient may spend funds otherwise required to be refunded under this subsection upon written approval from the department.

(4) REVIEW. Any responsible unit who is dissatisfied with any determination made by the department under the section may request review by the chief of the department's environmental financial assistance section. If the matter is still not resolved, review may be sought from the director of the department's bureau of community financial assistance. All requests for review of termination actions shall be made by the grant recipient in writing, be addressed to the appropriate department staff, and shall contain factual information explaining the basis for requesting review. The department shall issue all decisions under this subsection in writing.

NR 549.18 Enforcement. (1) SANCTIONS. The department may impose the following sanctions for noncompliance of any provisions of this chapter;

(a) The grant may be terminated.

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

(c) Repayment of some or all of the grant amount related to the noncompliance may be required.

(d) Other administrative and judicial remedies may be sought as legally available and appropriate.

(2) WITHHOLDING OR REFUND OF GRANTS. (a) If any responsible unit uses any scheme or device to unjustly benefit from the grant program under this chapter, the department shall withhold grants awarded under this chapter or require a refund of part or all of any payments otherwise due or paid to the

responsible unit. A scheme or device to unjustly benefit from this program includes, but is not limited to, coercion, fraud or misrepresentation, false claims or any business or other dissolution, reorganization, revival or other legal mechanism designed for or having the effect of evading the requirements of ch. NR 549.

(b) If any responsible unit takes action resulting in, or fails to take action to prevent, the destruction or impairment of a prescribed condition or term of the grant award, the department shall withhold a grant provided under this chapter or require a refund of part or all of any payments otherwise due or paid.

(c) Any responsible unit that has spent funds received under this chapter on ineligible costs defined under s. NR 549.05 (2) is ineligible for:

1. Recycling efficiency incentive grant assistance the following year if the funds were intentionally diverted to other purposes by the responsible unit.

2. A portion of the recycling efficiency incentive grant assistance for the following year if the responsible unit does not repay the inappropriately spent funds to the department and the amount exceeds any outstanding grant payments owed the responsible unit.

(3) OTHER PENALTIES. (a) Nothing requiring the withholding or repayment of a grant provided under this chapter shall preclude any other penalty or liability available by law.

(b) Any person who violates this chapter by a material misrepresentation in their application is subject to the penalties specified in s. 287.97, Stats.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on _____.

This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2) (intro.), Stats.

Dated at Madison, Wisconsin: _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Darrell Bazzell, Secretary

(SEAL)