

Chapter NR 548

WASTE REDUCTION AND RECYCLING DEMONSTRATION GRANTS

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Note: As a result of the repeal of s. 287.25, 2009 Stats., this chapter is currently without effect. The rule is being retained in the Administrative Code pending future legislative action.

Note: Corrections made under s. 13.93 (2m) (b) 7., Stats., Register, August, 1997, No. 500.

NR 548.01 Purpose. The purpose of this chapter is to establish rules under s. 287.25, Stats., for the implementation and administration of a grant program to fund innovative solid waste reduction and recycling demonstration projects.

History: Cr. Register, July, 1991, No. 427, eff. 8-1-91.

NR 548.02 Applicability. This chapter applies to all applicants for and recipients of funding under the solid waste reduction and recycling demonstration grant program established pursuant to s. 287.25, Stats.

History: Cr. Register, July, 1991, No. 427, eff. 8-1-91.

NR 548.03 Definitions. In this chapter:

(1) "Applicant" means a Wisconsin town, village, city, public entity, private business or nonprofit organization, or more than one of these entities acting jointly, that submits an application for funding a solid waste reduction or recycling demonstration project.

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

(3) "In kind contribution" means a payment of an equivalent amount with goods, commodities or services rather than money.

(4) "Innovative technology" means a new and creative application of science to the objectives of reducing solid waste at its source and increasing recycling of municipal, commercial and industrial waste.

(5) "Postconsumer waste" has the meaning given in s. 287.01 (7), Stats.

(6) "Recycling" means the collection, processing, remanufacturing and marketing of solid waste materials.

(7) "Responsible unit" has the meaning given in s. 287.01 (9), Stats.

(8) "Solid waste" has the meaning given in s. 289.01 (33), Stats.

History: Cr. Register, July, 1991, No. 427, eff. 8-1-91.

NR 548.04 Eligibility for grant assistance. (1) ELIGIBLE APPLICANTS. An applicant may apply for a demonstration grant for the purpose of implementing innovative waste reduction and recycling activities.

(2) **INELIGIBLE APPLICANTS.** The following applicants are ineligible for grant assistance:

(a) Applicants that have previously received a demonstration grant.

(b) Beginning on January 1, 1993, a responsible unit which has not complied with s. 287.09 (2) (b), Stats.

(3) **ELIGIBLE PROJECTS.** (a) An applicant shall show:

1. That the proposed project demonstrates an innovative technique, process or system for waste reduction or recycling;

2. The ability to carry out the demonstration project;

3. Evidence of adequate financial support to carry out and complete the proposed project.

(b) Regardless of par. (a) 1., an applicant whose project includes use of a proven technology may receive a grant for that portion of the project which demonstrates an innovative technology or process.

History: Cr. Register, July, 1991, No. 427, eff. 8-1-91.

NR 548.05 Eligible and ineligible costs. (1) ELIGIBLE COSTS. Those project costs which are consistent with the approved project scope, reasonable and necessary, and incurred during the grant period are eligible for grant funding. Eligible costs may include, but are not limited to any of the following:

(a) Salaries and fringe benefit costs of personnel engaged in the project.

(b) The purchase of necessary supplies, small equipment purchases and large purchases on an amortized basis.

(c) The costs of leased equipment and facilities for the length of the demonstration project.

(d) The in kind contribution of the applicant of labor, equipment or facilities.

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

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

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

(c) Costs for which payment has been or will be received under another federal or state financial assistance program.

(d) Costs incurred in a contract which creates a real or apparent conflict of interest. An apparent conflict of interest arises when an official or employee of a grantee participates in the selection, awarding or administration of a contract supported by this project and:

1. The official or employee, or his or her spouse or partner, has an ownership interest in the firm selected for the contract; or

2. A person identified in subd. 1. receives a contract, gratuity or favor from the award of the contract.

(e) Program costs incurred beyond the grant period.

History: Cr. Register, July, 1991, No. 427, eff. 8-1-91.

NR 548.06 Financial assistance. (1) AWARD CALCULATION. (a) The award may not exceed 50% of actual eligible costs.

(b) No award may exceed \$150,000.

(c) At the discretion of the department, the award may be based upon the weight or equivalent volume of solid waste anticipated to be diverted from disposal at land disposal facilities, but not to exceed the amount specified in par. (b).

(2) **GRANTEE'S MATCHING SHARE.** The grant recipient's share of the total eligible costs of the project shall be at least 25% and

may be a cash or in kind contribution. The remaining 25% of the grantee's matching contribution may be from other sources.

(3) GRANT PAYMENT. (a) *Initial payments.* The department may disburse 75% of the total amount of the grant after the applicant has accepted the grant offer and has submitted an advance payment request.

(b) *Final payment.* The remaining 25% of the grant may be paid to the grantee upon approval of the final report as required by s. NR 548.09 (2) and the final accounting of project expenditures. The grantee shall submit the final payment request within 60 days after project completion or the end of the grant period, whichever occurs first.

(c) Any unexpended grant monies shall be returned to the department within 60 days after expiration of the grant period.

History: Cr. Register, July, 1991, No. 427, eff. 8-1-91.

NR 548.07 Grant selection system. (1) In selecting projects for grant assistance, preference shall be given to projects which do one or more of the following:

(a) Reduce the amount of one or more components of postconsumer waste going to landfills by reducing the amount being generated;

(b) Improve the efficiency of collection or processing of one or more types of postconsumer waste; or

(c) Develop or expand the market for one or more materials separated from postconsumer waste, with highest preference given to projects that develop markets for high priority materials as listed in the department's current market development priority list established and modified pursuant to s. 159.03 (1) (b), Stats.

Note: 1993 Wis. Act 75 repealed s. 159.03.

(2) The department shall also consider the following factors in awarding demonstration grants:

(a) The proportion of the wastestream that will potentially be recovered as recyclable material.

(b) The weight or equivalent volume of solid waste which is anticipated to be diverted from solid waste disposal or treatment facilities as a result of waste reduction and recycling activities associated with this project. This weight or equivalent volume may not include solid waste diverted from waste reduction or recycling facilities or activities in existence or for which a feasibility report is submitted on or before the date of the grant application;

(c) The type or types of waste reduction and recycling activities to be implemented;

(d) Consideration of existing waste reduction and recycling activities;

(e) Consideration of existing and anticipated solid waste management needs;

(f) The value of implementation of the waste reduction or recycling activity as a demonstration or experimental project;

(g) Consideration of the implementation of innovative technologies in a waste reduction or recycling activity. No grant money may be awarded for costs of proven technologies, including, but not limited to, incinerator projects;

(h) Consideration of the application or implementation of innovative technologies in a project which employs a proven technology in a waste reduction or recycling activity. Notwithstanding par. (g), a project which employs a proven technology may receive grant moneys for that portion of the project which implements innovative technologies and applications;

(i) The degree to which the technology or institutional arrangements demonstrated by the project are applicable to other Wisconsin cities, villages, townships, counties, nonprofit organizations or private businesses;

(j) The applicant's proven ability to carry out the demonstration project as evidenced by credentials, experience and the level of detail provided in the application;

(k) The extent to which the proposal addresses one of the demonstration project needs as identified by the department in a list published annually in June, beginning in 1991;

(L) The evidence of cash, in kind and other forms of support from the applicant, including but not limited to, the private sector, civic organizations, and other governmental agencies; or

(m) The degree to which the demonstration project will contribute to the implementation of the state's solid waste policies, as expressed in s. 287.05, Stats.

History: Cr. Register, July, 1991, No. 427, eff. 8-1-91.

NR 548.08 Grant assistance application. (1) PROCEDURE. Applicants and the department shall comply with all of the following general application procedures:

(a) An applicant shall submit a completed application to the department by August 1. Application for grant funds shall be made on forms provided by the department in accordance with the instructions enclosed.

Note: Forms and instructions may be obtained, at no charge, from the Bureau of Community Financial Assistance, Department of Natural Resources, P.O. Box 7921, Madison, WI 53707.

(b) The department shall evaluate the applications to determine the priority of each project, pursuant to s. NR 548.07, and issue grant offers to qualifying applicants by November 1.

(c) If funds remain after the award of these grants, an additional grant cycle may be announced.

(2) CONTENTS OF APPLICATION. An application shall contain all of the following:

(a) *Commitment statement.* A signed resolution or statement which demonstrates the applicant's commitment to implement the project as outlined in the project's scope of activities.

(b) *Project proposal.* A detailed project proposal, outlining the project's scope and objectives, that contains the following:

1. A statement of the project objectives and the technical problem to be solved.

2. A discussion of the innovative quality of the proposed project.

3. A work plan which identifies project tasks, the key personnel and their qualifications.

4. A timetable showing anticipated dates for major planned activities, including the submittal of interim and final reports.

5. An estimate of the costs for conducting the demonstration project. Estimates shall be provided for all major planned activities or purchases and shall be supported by documentation showing how each cost estimate was determined.

6. An estimate of the types and amounts of solid waste which may be reduced, reused or recycled from this project if successful and from full-scale or statewide implementation of the demonstration project's techniques or institutional arrangements. These calculations may not include solid waste diverted from existing waste reduction or recycling facilities or activities.

7. Supporting published articles or other literature related to the proposed project, sufficient to demonstrate the applicant's knowledge of state of the art technology and techniques.

8. A complete description of the testing and evaluation procedures to be used throughout the demonstration project.

9. A description of proposed information and education activities designed to provide citizens an opportunity to be informed of, and where appropriate, the ability to participate in the demonstration project.

10. An analysis of the anticipated ease with which communities or other recycling or waste reduction entities can adopt or incorporate the proposed project. The analysis should indicate whether the application of the proposed project may have only local application.

(c) *Plans and specifications.* A preliminary project design, engineering plans and specifications for any facilities and equipment required for the proposed project.

(d) *Permits, approvals or waivers.* Verification that all applicable federal and state permits, approvals, licenses or waivers necessary to implement the project have been obtained or applied for and will be obtained prior to the grant award. Receipt of a demonstration grant will not relieve the applicant of the obligation to comply with all state and federal laws, regulations and standards for environmental quality.

(e) *Financial, institutional and managerial capability.* Documentation of the ability to finance, manage and complete the project. Financial capability may be demonstrated by the pledging of a revenue source, a financial report showing adequate financial capability or a letter of credit for the applicant's share of the project costs. Institutional and managerial capability may be shown by the applicant's experience, credentials and relevant knowledge as related to the project scope.

(3) CONFIDENTIALITY. The applicant may request, pursuant to s. NR 2.19, that any information submitted under sub. (2) be designated a trade secret and be accorded confidential status by the department.

History: Cr. Register, July, 1991, No. 427, eff. 8-1-91.

NR 548.09 Project reports. (1) INTERIM REPORTS. Each grant recipient shall submit to the department at no less than 6 month intervals, depending on the grant periods, one or more preliminary reports which contain details of progress, findings, problems and other information regarding the status of the project. Within 60 days of receipt of an interim report, the department shall either schedule a meeting or provide written comments to the grantee.

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

(a) Documentation of all project activities conducted during the grant period, including the achievements, limitations and shortcomings with respect to the originally stated project goals and objectives. This discussion of project activities shall include mitigation measures that would minimize any actual or potential adverse environmental impacts.

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

(c) A discussion of the requirements necessary to expand the application of the demonstration project statewide. This section shall include economic, environmental, technical, social and political limitations, and any other considerations that may hinder the implementation of the demonstration project on a wider scale.

(d) Complete detail of all technical aspects of the demonstration project, both positive and negative, including but not limited to plan sheets, engineering drawings and equipment specifications.

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

(f) The conclusions and final recommendations, including an evaluation of the technical effectiveness, environmental effects and economic feasibility of the methods and techniques demonstrated.

(g) An appendix that includes all references and supporting documents appropriate to the final report. A summary of all applicable state and federal laws and regulations shall also be made part of the appendix.

(3) CONFIDENTIAL REPORTS. Grantees that have received confidential status, pursuant to s. NR 2.19, shall submit one confidential final report and one report for public distribution.

History: Cr. Register, July, 1991, No. 427, eff. 8-1-91.

NR 548.10 Grantee accountability. (1) RECORDS MANAGEMENT. The grantee shall maintain an accounting system that accurately reflects all fiscal transactions, incorporates appropriate controls and safeguards, and provides a clear reference, particularly to source or original documents, as directed in the grant agreement.

(a) *Fiscal controls and 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. Project 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 project receipts shall be identified in sufficient detail to reflect their source and purpose.

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

5. Payroll records that reflect actual project hours worked by each employee as well as allocable gross wages and fringe benefits paid shall be maintained. Time and attendance records describing the work performed, specifying project hours worked by day, and both signed by the employee and bearing evidence of management approval, shall be maintained, along with computations showing hourly pay rates and allocation of fringe benefits.

(b) *Consultant, construction and service contracts.* Any work totalling \$10,000 or more per year shall be covered by a formal contract or agreement specifying financial terms, contract duration, and services to be rendered.

(c) *Capital purchases.* To be fully eligible under the grant, a capital purchase shall be used exclusively for project-related purposes over its useful life. Nonexclusive capital purchases may be charged to the grant only for that portion of depreciation equitably related to use in project activities.

(d) *Equipment use.* Rates charged for use of the responsible unit's own equipment shall be limited to the county-wide rates established annually by the Wisconsin department of transportation.

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

History: Cr. Register, July, 1991, No. 427, eff. 8-1-91.

NR 548.11 Grant variances. The department may approve in writing variances from non-statutory requirements of this chapter upon request of the grantee when it is determined that variances are essential to effect necessary actions or department objectives, and where special circumstances make variances in the best interests of the state. Before granting a variance, the department shall take into account factors such as good cause, circumstances beyond the control of the grantee and financial hardship.

History: Cr. Register, July, 1991, No. 427, eff. 8-1-91.

NR 548.12 Grant termination. (1) The department and a grantee may enter into an agreement to terminate the award at any time pursuant to this section. The agreement shall establish the effective date of termination of the project and the grant award, the basis for settlement of award termination costs, and the amount and date of payment of any sums due either party.

(2) The department may terminate the grant in whole or in part and the grant recipient shall return the full grant amount if the department determines that:

(a) There has been no substantial performance on the demonstration project by the grantee, without good cause;

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

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

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

History: Cr. Register, July, 1991, No. 427, eff. 8-1-91.

NR 548.13 Enforcement. The following sanctions may

be imposed for noncompliance with the provisions of this chapter, or any award made under this chapter:

(1) The award may be terminated under s. NR 548.12.

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

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

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

History: Cr. Register, July, 1991, No. 427, eff. 8-1-91.