

CR 90-51



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny, Secretary  
Box 7921  
Madison, Wisconsin 53707  
TELEFAX NO. 608-267-3579  
TDD NO. 608-267-6897

STATE OF WISCONSIN )  
 )  
DEPARTMENT OF NATURAL RESOURCES ) ss

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Bruce B. Braun, Deputy Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. SW-7-90 was duly approved and adopted by this Department on July 26, 1990. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have here-  
unto set my hand and affixed the  
official seal of the Department at  
the Natural Resources Building in  
the City of Madison, this 12<sup>th</sup>  
day of November, 1990.

*Bruce B. Braun*  
Bruce B. Braun, Deputy Secretary

(SEAL)

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ORDER OF THE STATE OF WISCONSIN  
NATURAL RESOURCES BOARD  
CREATING RULES

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. . . . .  
. IN THE MATTER of creating subch. IV of NR 555 .  
. of the Wisconsin Administrative Code pertaining .  
. to the establishment of a waste tire management . SW-7-90  
. or recovery grant program .  
. . . . .

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 144.798 and 227.11(2)(a), Stats.  
Statutes interpreted: s. 144.798, Stats.

This rule establishes application requirements, eligible costs, priorities and procedures for the Waste Tire Management or Recovery Grant program.

Pursuant to s. 144.798 (3), Stats., municipalities, governmental bodies, private businesses or nonprofit organizations may apply to the Department for grant assistance for development costs or operating costs of a waste tire recovery activity. The applicant must show that at least 95% of the waste tires involved in the activity are received from Wisconsin sources. The Department is required to give priority to applications for development costs over applications for operating costs.

The proposed rule establishes two types of projects eligible for grant assistance--waste tire management projects and waste tire recovery projects.

Waste tire management projects are those which divert waste tires from illegal stockpiling by controlling and enhancing the availability of facilities for collecting, transporting and storing waste tires. Eligible projects include waste tire collection programs, public education programs and local enforcement programs for waste tire management.

Waste tire recovery projects are those which expand the market for waste tires by developing new technologies or improving existing technologies for the reuse of waste tires. Eligible projects include research and development of technology to reuse waste tires, including the technical, environmental, economic, legal and marketing aspects of a proposed recovery activity. Eligible projects may also include the testing or piloting of a new recovery process or system.

Under the proposed rule, a project solely for preparing a feasibility study or projects involving the landfilling of waste tires are not eligible for grant assistance.

The proposed rule establishes a maximum grant amount of 50% of eligible project costs or \$50,000, whichever is less. Costs eligible for funding may include costs of staffing, equipment rental, operation of a test process, approved construction, development of educational materials and professional assistance for planning, finance, legal affairs and marketing.

Costs which are not eligible for grant funding include the costs of capital equipment, licenses or permits and waste tires purchased as a raw material or fuel. Ineligible costs also include costs incurred before the grant award is issued or after the grant award expires.

The proposed rule also establishes the application contents, deadlines for submitting forms, review procedures, criteria for determining priority and procedures for administering the grant awards and processing payments.

SECTION 1. NR 555, subch. IV is created to read:

SUBCHAPTER IV - WASTE TIRE MANAGEMENT OR RECOVERY GRANTS

NR 555.13 GENERAL REQUIREMENTS. (1) ELIGIBLE APPLICANTS. A municipality, governmental body as defined in s. 19.82, Stats., private business or nonprofit organization may apply to the department for a waste tire management or recovery grant if at least 95% of the waste tires involved in the activity are received from Wisconsin tire dumps, retailers or residents.

(2) ELIGIBLE PROJECTS. (a) Projects that are eligible for a waste tire management grant include projects whose primary purpose is to divert the stream of waste tires from illegal stockpiling by controlling the transportation and storage of waste tires and by enhancing the availability of facilities for their collection, transportation and storage. Eligible waste tire management projects include the following:

1. The development or operation of a waste tire collection program.
2. The development or operation of a public education program for waste tire management.
3. The enforcement of local regulations relating to waste tire management.

(b) Projects that are eligible for a waste tire recovery grant include projects whose primary purpose is to develop new technologies for the reuse of waste tires or improve existing technologies in order to expand the market for waste tires. Eligible waste tire recovery projects include the following:

1. Research and development of technology to reuse waste tires, including the technical, environmental, economic, legal and marketing aspects of the proposed recovery activity.

2. Process testing, piloting, including engineering design of a plant, process or system.

(3) INELIGIBLE PROJECTS. Projects that are not eligible for a waste tire management or recovery grant include the following:

(a) Projects solely for the preparation of a feasibility study.

(b) Projects involving the landfilling of waste tires.

(4) ELIGIBLE COSTS. Eligible costs include the reasonable and necessary costs of:

(a) Staff salary, fringe benefits and travel costs.

(b) Equipment rental and operation of a test process.

(c) Professional assistance with project planning, finance, legal affairs, marketing, engineering and environmental evaluations, when performed in conjunction with the operation of a process or system for waste tire recovery.

(d) Printing brochures and other public educational material.

(e) Specific costs of construction as approved by the department.

(5) INELIGIBLE COSTS. Ineligible costs include the following:

(a) The costs of capital equipment.

(b) The costs of preparing license or permit applications.

- (c) License applications or permit fees.
- (d) Waste tires purchased as a raw material or feedstock.
- (e) Costs incurred prior to the issuance of a grant award by the department.
- (f) Costs incurred after the expiration date of the grant award under s. NR 555.16.

NR 555.14 APPLICATION. (1) CONTENTS: An application for a waste tire management or recovery grant shall be submitted on forms provided by the department and shall contain the following information:

Note: Application forms may be obtained, at no charge, from the Bureau of Solid and Hazardous Waste Management, Department of Natural Resources, P.O. Box 7921, Madison, Wisconsin 53707.

(a) A resolution by the governing body or management of the applicant which:

1. Authorizes the application and identifies an authorized representative to act on behalf of the applicant.
2. Represents that the applicant will carry out all proposed activities as described in the grant application and approved for grant funding by the department.
3. Represents that the applicant will maintain appropriate records to document expenditures for which cost sharing will be claimed.
4. Authorizes department employees access to inspect project sites and records upon request during normal business hours.

(b) A description of the proposed project identifying the location of the activity, the sources and estimated amount of waste tires to be used or managed, the activity or processes involved, the expected goals or products to

be produced and the estimated market potential for any products which may result from the project.

(c) A project budget, including proposed funding sources, a detailed estimate of the total project cost and proposed eligible costs under s. NR 555.13 and documentation of how the estimate was made.

(d) A proposed timetable for completion of the project showing the estimated dates of completion of major project components.

(e) Other information as requested by the department to determine compliance with this chapter.

(2) APPLICATION DATE. The department shall review and process applications annually. To be considered for funding priority under s. NR 555.15, a completed application shall be received by the department by March 1, of each year, or within 45 days of the effective date of this rule...[revisor insert date].

(3) TRADE SECRETS. The applicant may designate any information submitted under sub. (1) as a trade secret and request that the information be treated as confidential in accordance with s. NR 2.19. The burden of establishing the need for confidential treatment of the information shall be on the applicant.

NR 555.15 PRIORITY. (1) All grants shall be subject to the availability of funding. If funding is not sufficient for all completed applications received by March 31, the department shall assign priority to applications for grants under this subchapter according to the following criteria:

(a) Projects to develop a new activity or to expand an existing activity shall have priority over projects to operate an existing activity. The score for this criterion shall range from 0 to 10 points.

(b) Projects which have the potential to substantially increase the market for waste tires or to substantially reduce the number of waste tires that are disposed of illegally or landfilled shall have priority. The score for this criterion shall range from 0 to 5 points.

(c) Projects in which the participants have the qualifications and personnel to manage the project and perform the technical work required shall have priority. In making this determination, the department may consider the applicant's previous history on similar projects. The score for this criterion shall range from 0 to 5 points.

(d) Projects may receive an additional score of one point for each of the following criteria:

1. Projects for the reuse or recycling of waste tires shall have priority over projects for the recovery of energy from waste tires.

2. Projects which do not duplicate an ongoing waste tire management or recovery activity.

3. Projects which have the potential to fully implement a reuse technology or management activity within 2 years.

4. Applications which are complete and well prepared at the time of submission.

5. Projects which are the most cost effective as determined by the potential for the greatest number of waste tires managed or recovered for each grant dollar requested.



(e) If 2 or more applications receive the same total score for the criteria under pars. (a) through (d), the department may use the following additional criteria to determine priorities. One tenth of a point may be awarded for each of the following:

1. Projects which are regional or statewide in nature.
2. A project to test or develop the use of waste tires as a surfacing material, structural material or fill for a highway improvement project.
3. A cooperative project which involves the joint participation of 2 or more municipalities, governmental bodies, nonprofit organizations or businesses.

(2) If funds are insufficient for all completed applications received by March 31, the department shall rank the applications and award grants by descending order of priority scores until available funds are depleted.

NR 555.16 GRANT AWARDS. (1) The department may issue a grant award after it has determined that the project is eligible and has priority for available funds.

(2) The maximum amount of a grant award, including amendments, shall not exceed 50% of the eligible project cost or \$50,000, whichever is less.

(3) The grant award project period shall expire one year from the date of issuance of the grant award unless an extension is requested by the grantee and approved in writing by the department.

(4) The department may amend a grant award for major changes in project scope if it determines that the changes are necessary to meet the objectives of this subchapter. Any requests for a grant amendment shall be made and fully documented by the grantee. Any amendments to a grant award shall be made in writing and mutually agreed to by the grantee and the department. The

department's approval of grant amendments shall be subject to the availability of funds.

(5) The department may cancel a grant award if the grantee does not accept the grant award within 45 days of issuance by the department.

(6) The department may terminate an accepted grant and the grantee shall return the full amount of payments received, if any, if the department determines that:

(a) There has been no substantial performance of the project;

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

or

(c) There is substantial evidence of gross abuse or corrupt practices by the grantee in carrying out the project.

NR 555.17 PAYMENTS. (1) The grantee may request an interim grant payment of up to 50% of the total grant amount, for costs incurred during the project period. A request for an interim grant payment shall be made on forms provided by the department and shall include documentation of work completed, eligible costs incurred and proof of payments made by the grantee.

Note: Payment request forms may be obtained, at no charge, from the Bureau of Solid and Hazardous Waste Management, Department of Natural Resources, P.O. Box 7921, Madison, Wisconsin 53707.

(2) The grantee shall request final payment no later than 60 days after the expiration date of the grant award. The request for final payment shall be made on forms provided by the department and shall include:

(a) Documentation of eligible costs incurred and proof of payments made.

(b) Documentation showing the source of any waste tires recovered or managed under the grant project.

(c) A written final report of all activities conducted under the grant project, including:

1. Achievements, limitations and shortcomings with respect to the originally stated project goals and objectives.

2. A description of all project modifications that may have occurred and the reasons why these modifications were necessary.

3. A detailed presentation of all technical findings, both positive and negative.

4. Public information and educational activities, if applicable.

5. Conclusions and final recommendations, including an evaluation of the technical effectiveness, environmental effects and economic feasibility of continuing or expanding the management or recovery activity.

6. An appendix that includes all references and supporting documents appropriate to the final report.

(3) Final payment of the grant shall be paid to the grantee after documentation of satisfactory project completion, eligible costs incurred and proof of payment by the grantee have been audited by the department.

(4) The grantee shall retain all records pertaining to the project for a period of 3 years after the date of the final settlement and allow the department access to all records during normal business hours for the purposes of determining compliance with these rules.

NR 555.18 VARIANCES. The department may approve in writing a variance from a requirement of this chapter upon the written request of an applicant or a grantee when the department determines that a variance is essential to

effect necessary grant actions or program objectives and where special circumstances make a variance in the best interest of the program. Before approving a variance, the department shall take into account factors such as good cause, circumstances beyond the control of the applicant or grantee and financial hardship. The department may not grant a variance from a statutory requirement.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on July 26, 1990.

The rule shall take effect on 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 November 12, 1990.

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny  
Carroll D. Besadny, Secretary

(SEAL)

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State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny, Secretary  
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November 12, 1990

Mr. Gary L. Poulson  
Assistant Revisor of Statutes  
119 Martin Luther King, Jr., Blvd.

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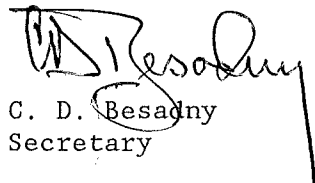
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Dear Mr. Poulson:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. SW-7-90. These rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Urban Affairs, Environmental Resources, Utilities and Elections pursuant to s. 227.19, Stats. Summaries of the final regulatory flexibility analysis and comments of the legislative review committees are also enclosed.

You will note that this order takes effect following publication. Kindly publish it in the Administrative Code accordingly.

Sincerely,

  
C. D. Besadny  
Secretary

Enc.

