



State of Wisconsin

CR 87-67

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny  
Secretary

BOX 7921  
MADISON, WISCONSIN 53707

File Ref:

**RECEIVED**

MAY 27 1988

10:40 am  
Revisor of Statutes  
Bureau

STATE OF WISCONSIN )  
DEPARTMENT OF NATURAL RESOURCES )

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-13-87 was duly approved and adopted by this Department on March 24, 1988. 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 19th  
day of May, 1988.

  
Bruce B. Braun, Deputy Secretary

(SEAL)

8-1-88

ORDER OF THE STATE OF WISCONSIN NATURAL  
RESOURCES BOARD CREATING RULES

.....  
IN THE MATTER of creating ch. NR 540 of the .  
Wisconsin Administrative Code pertaining . SW-13-87  
to waste separation and recycling .  
collection facilities .  
.....

Analysis Prepared by the Department of Natural Resources

Statutory authority: ss. 144.796, and 227.11, Stats.  
Statutes interpreted: s. 144.796, Stats.

The proposed rule includes the following:

1. Criteria for, and the number of, required waste separation and recycling collection facilities in municipalities and at landfills.
2. Requirements for the location of the waste separation and recycling collection facilities.
3. Design and operation standards for the facilities.
4. The procedure for applying for an exemption to the requirements with the exemption for lack of economic feasibility given if the cost of recycling exceeds 150% of the cost of alternative solid waste management.

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SECTION 1. Chapter NR 540 is created to read:

NR 540.01 PURPOSE. The purpose of these rules is to establish minimum standards for waste separation and recycling collection facilities as required by s. 144.796, Stats.

NR 540.02 APPLICABILITY. These rules apply to waste separation and recycling collection facilities for newsprint, aluminum, glass and plastic to be located at landfills accepting residential waste from the public and

disposing of less than 50,000 tons of residential waste a year; to counties with populations of 10,000 to 50,000 and, in counties with populations of over 50,000 to towns, villages, and cities of 10,000 in population or more, or to the county if there is no town, village or city of 10,000 in population.

NR 540.03 DEFINITIONS. (1) "Aluminum" means aluminum cans.

(2) "Critical habitat areas" means any habitat determined by the department to be critical to the continued existence of any endangered or threatened species listed in ch. NR 27.

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

(4) "Floodplain" means the land which has been or may hereafter be covered by flood water during the regional flood as defined in ch. NR 116.

(5) "Glass" means glass bottles, jars and other containers and does not include window glass, pyrex, light bulbs or other noncontainer glass.

(6) "Municipality" means any town, village, city or county in the state.

(7) "Plastic" means a rigid or semi-rigid container made of polyethylene, polyvinyl chloride, polypropylene, polyethylene terephthalate (PET) or other recyclable plastic.

(8) "Residential solid waste" means solid waste generated within households, and does not include commercial waste, industrial waste, demolition waste, construction waste, septage, or brush or other wastes not produced within a household.

(9) "Solid waste disposal facility" means a licensed solid waste facility for the discharge, deposit, injection or placing of any solid waste into or on the land. This term does not include facilities for the collection, storage, transfer, transportation or treatment of solid waste.

(10) "Waste separation and recycling collection facility" means a system of containers, equipment or other structures to collect source separated newsprint, aluminum, glass or plastic for the purpose of recycling. The facility does not need to collect all 4 materials at one location.

(11) "Wetland" means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

Note: Waste separation and recycling collection facilities for newsprint, glass, aluminum and plastic are required to be established both at solid waste disposal facilities accepting less than 50,000 tons of residential waste, and in communities of population of over 10,000 people unless otherwise exempted. For facilities in communities, the requirements are as follows:

In counties of 10,000-50,000 people one facility is required; the county shall provide the facility if no facility is available.

In counties of 50,000 or more people:

If no city, village or town is above 10,000 in population, the county is to provide for at least one facility.

For cities, villages and towns of over 10,000 in population, the required number of facilities is:

If the population is over 10,000 but less than 50,000 - one

If the population is at least 50,000 but under 100,000 - two

If the population is 100,000 or more - three plus one for each additional 100,000 in population.

Exemptions can be granted if there are already an adequate number of recycling facilities listed in a DNR directory or if the required facilities are not economically feasible.

It is not necessary for all four materials to be collected at a single location, or under common ownership.

NR 540.04 LOCATION REQUIREMENTS. (1) GENERAL. No person may establish, construct, operate or maintain a waste separation and recycling collection facility in a critical habitat area, a floodplain or a wetland.

(2) SOLID WASTE DISPOSAL FACILITIES. A waste separation and recycling collection facility required to be provided by the owner or operator of a solid waste disposal facility shall be within the property limits of the solid waste disposal facility, or, upon written approval of the department, at a convenient location within a reasonable travel distance of the solid waste disposal facility.

(3) MUNICIPAL CENTERS. A waste separation and recycling collection facility required to be provided by a municipality shall be located within the corporate limits of the municipality, or, upon written approval of the department, at a convenient location within a reasonable travel distance of the municipal corporate limits.

NR 540.05 LICENSE EXEMPTION. A solid waste facility license is not required for a waste separation and recycling collection facility developed in compliance with these rules. Note: Other local, state and federal requirements may apply.

NR 540.06 DESIGN AND OPERATION STANDARDS. Waste separation and recycling collection facilities shall meet the following requirements:

(1) Facilities for newsprint shall provide protection from precipitation and direct exposure to sunlight. It is recommended that facilities for aluminum, glass and plastic either provide for protection from precipitation or for the drainage of precipitation.

(2) Facilities shall be designed and operated to minimize the potential for safety hazards, especially from broken glass.

(3) Facilities shall be designed and operated to minimize the potential for litter and the mixing of contaminants into otherwise properly separated materials.

(4) Facilities shall be designed and operated to minimize vandalism. Controlled access is recommended, but not required.

(5) A sign shall be posted to clearly describe materials collected, preparation required before depositing the materials at the facility, the hours of operation, the name of the owner or operator of the facility, and the name, address and telephone number of the responsible official to contact.

(6) Adequate capacity shall be provided to store sufficient quantities of material prior to transportation to markets.

(7) The design and operation of a waste separation and recycling collection facility located at a solid waste disposal facility shall not interfere with proper operation of the solid waste disposal facility.

NR 540.07 NOTIFICATION. Any person required to provide for a waste separation and recycling collection facility shall, upon the development of the waste separation and recycling collection facility, notify the appropriate department area office with the following information:

- (1) Name, address and telephone number of the responsible official,
- (2) Location of the waste separation and recycling collection facility,
- (3) Hours of operation, and
- (4) Materials collected.

NR 540.08 PUBLIC INFORMATION AND EDUCATION. Any person required to provide for a waste separation and recycling collection facility shall publish in the local telephone directory a listing of the telephone number of a responsible official for the waste separation and recycling collection facility, and, at least semi-annually, publish a notice in the major newspaper of each community to be served by the facility describing the availability and location of the facility, the types of materials accepted, the required preparation of materials to be accepted, and the hours of operation. Other public information and education activities are strongly recommended, but not required.

NR 540.09 ANNUAL REPORT. A person required to provide for a waste separation and recycling collection facility shall, by March 1 of each year, submit a report to the appropriate department area office describing for the previous calendar year the amount of material collected, the markets to which materials were taken, a description of any major problems in marketing the collected materials, and an estimate of disposal volume and disposal cost saved due to recycling.

NR 540.10 APPLICATION FOR EXEMPTION. An exemption from the requirement to establish and operate a waste separation and recycling collection facility may be granted in writing by the department to any person who is required to establish a facility as described in s. 144.796, Stats., if other waste separation and recycling collection facilities are required, if an adequate number of facilities already exist or if the collection and sale of the recovered materials is not economically feasible. The exemption may be granted for any of the 4 materials to be collected and recycled, either individually or jointly. A request for an exemption shall be made in writing to the appropriate department district office. Exemptions shall be valid for a period of no more than 2 years, but may be renewed by the department.

(1) EXEMPTION BASED ON REQUIREMENTS FOR OR ADEQUACY OF EXISTING FACILITIES. (a) Municipal facilities. The following information shall be submitted by a municipality to request an exemption from the requirement for a waste separation and recycling collection facility within a municipality, based on the requirements for waste separation and recycling collection facilities at solid waste disposal facilities or the availability of adequate existing waste separation and recycling collection facilities:

1. The name of the municipality,
2. The population of the municipality,
3. The required number of facilities, and
4. A description of any existing adequate waste separation and recycling collection facilities including location, materials collected and the name, address and telephone number of a responsible official for the facility or a

description of any waste separation and recycling collection facilities required at solid waste disposal facilities that accept residential waste from the municipality.

Note: The primary responsibility for providing the required waste separation and recycling collection facilities is on the owner or operator of a solid waste disposal facility which receives less than 50,000 tons of residential solid waste per year. Municipalities which have the responsibility to provide waste separation and recycling collection facilities are required to provide these facilities if these facilities are not required at the solid waste disposal facilities that accept waste from the municipality or unless otherwise exempted.

(b) Waste separation and recycling collection facility at solid waste disposal facilities. An exemption for a waste separation and recycling collection facility at a solid waste disposal facility based on the availability of adequate existing waste separation and recycling collection facilities shall be granted only if all municipalities served by the solid waste disposal facility have adequate waste separation and recycling collection facilities. The following information shall be submitted by the owner or operator of a solid waste disposal facility to request an exemption from the requirement for a waste separation and recycling collection facility at a solid waste disposal facility, based on the availability of adequate existing waste separation and recycling collection facilities:

1. The name of the owner and license number of the solid waste disposal facility.

2. A list of all municipalities served by the solid waste disposal facility.

3. For each municipality listed in subd. 2., a description of the existing adequate waste separation and recycling collection facilities including location, materials collected, and the name, address and telephone number of an official responsible for each waste separation and recycling collection facility.

(2) EXEMPTION BASED ON LACK OF ECONOMIC FEASIBILITY. Exemptions may be granted if the department determines that the collection and recycling of the material is not economically feasible. Such an exemption may be granted only if the cost per ton of collection and recycling exceeds 150% of the current cost per ton of solid waste management. All requests for an exemption from the requirement for a waste separation and recycling collection facility because such a facility is not economically feasible shall provide the following information:

(a) For a facility within a municipality, the municipality shall provide:

1. The name of the municipality,
2. The population of the municipality,
3. An estimate of the quantity of annually available recoverable materials, the expected rate of recovery and the expected amount of material that could be recovered annually,
4. Anticipated costs to collect, process and transport recovered materials to a market,
5. The name and address of the market for the recoverable material,
6. The price paid by the market for the material,
7. The net cost on a per ton basis of collecting and recycling the material,

8. The current cost on a per ton basis of solid waste collection, transportation, treatment and disposal, and

9. Documentation that it is uneconomical or not practical to jointly transport recyclable materials to markets in cooperation with nearby recycling collection programs.

(b) For a waste separation and recycling collection facility at a solid waste disposal facility, the owner or operator of the solid waste disposal facility shall provide:

1. The name of the owner and the license number of the solid waste disposal facility,

2. A list of all municipalities served by the solid waste disposal facility and their population,

3. An estimate of the quantity of annually available recoverable materials, the expected rate of recovery and the amount of material that could be recovered annually,

4. Anticipated costs to collect, process and transport recovered material to a market,

5. The name and address of the market for the recoverable material,

6. The price paid by the market for the material,

7. The net cost on a per ton basis of collecting and recycling the material,

8. The current cost of solid waste disposal at the solid waste disposal facility, and

9. Documentation that it is uneconomical or not practical to jointly transport recyclable materials to a market in cooperation with nearby recycling collection programs.

NR 540.11 ENFORCEMENT. Any person who violates this chapter is subject to the penalties specified in s. 144.99, Stats.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on March 24, 1988.

The 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 this 19<sup>th</sup> day of May, 1988.  
STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By Carroll D. Besadny  
Carroll D. Besadny, Secretary

(SEAL)

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03/04/88



State of Wisconsin

DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny  
Secretary

BOX 7921  
MADISON, WISCONSIN 53707

May 20, 1988

File Ref: 1020

Mr. Orlan L. Prestegard  
Revisor of Statutes  
Suite 702  
30 W. Mifflin Street

Dear Mr. Prestegard:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. SW-13-87. These rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Urban Affairs, Energy, Environmental Resources and Elections pursuant to s. 227.19, Stats. A summary of the final regulatory flexibility analysis and comments of the legislative review committees is also enclosed.

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

Sincerely,

A handwritten signature in cursive script, appearing to read 'C. D. Besadny', written over a rectangular stamp area.

C. D. Besadny  
Secretary

Enc.