

CR 90-227



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Carroll D. Besadny, Secretary
Box 7921
Madison, Wisconsin 53707
TELEFAX NO. 608-267-3579
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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-74-90 was duly approved and adopted by this Department on January 24, 1991. 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 5th
day of March, 1991.

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 ch. NR 536 of the .
Wisconsin Administrative Code pertaining to . SW-74-90
dump closure cost sharing grant program .
.....

Analysis Prepared by Department of Natural Resources

Statutory Authority: ss. 144.455 and 227.11(2)(a), Stats.

Statutes Interpreted: s. 144.455, Stats.

The rules will define eligibility criteria for grant applicants, detail documentation needs, provide formulas for calculating grant amount and set a deadline for grant applications. Administration of the program will be accomplished through payment of individual grants to eligible political subdivisions.

SECTION 1. Chapter NR 536 is created to read:

CHAPTER NR 536
DUMP CLOSURE COST SHARING
GRANT PROGRAM

- NR 536.01 Purpose
- NR 536.02 Applicability
- NR 536.03 Definitions
- NR 536.04 Eligibility
- NR 536.05 Eligible and ineligible cost
- NR 536.06 Grant application
- NR 536.07 Closure construction documentation
- NR 536.08 Closure cost documentation
- NR 536.09 Grant amount
- NR 536.10 Grant payment

NR 536.01 PURPOSE. The purpose of this chapter is to establish rules under s. 144.455 Stats., (as created by 1989 Wisconsin act 335) for the administration of a cost share program for the closure of nonapproved facilities owned by political subdivisions.

NR 536.02 APPLICABILITY. This chapter applies to nonapproved facilities owned by political subdivisions.

NR 536.03 DEFINITIONS. The following definitions as well as the definitions in ch. 144, Stats., and s. NR 500.03 are applicable to the terms used in this chapter unless the context requires otherwise.

(1) "Approved facilities" has the meaning given in s. 144.441(1)(a), Stats.

(2) "Nonapproved facilities" has the meaning given in s. 144.441(1)(c), Stats.

(3) "Political subdivision" means a city, village, town, county or town sanitary district.

NR 536.04 ELIGIBILITY. (1) GENERAL. A political subdivision which owns a nonapproved facility closed between January 1, 1988 and October 1, 1992 is eligible for closure cost share assistance if:

(a) The political subdivision meets the eligibility requirements set forth in s. 144.455, Stats., and this chapter;

(b) The political subdivision submits an application to the department by the deadline established in s. NR 536.06;

(c) The department determines that the closure was completed in accordance with s. NR 506.08(3) and (4) or other closure plan approval requirements; and

(d) The closure cost information submitted by the political subdivision is complete, necessary, reasonable and accurate.

(2) INELIGIBLE FACILITIES. The following facilities are not eligible for the cost share program:

(a) Landfills owned by an agency of the state government.

(b) Unlicensed municipal solid waste landfills or dumps owned by one or more political subdivisions.

(c) Publicly owned approved facilities.

(d) Privately owned approved or nonapproved facilities.

(e) Publicly or privately owned demolition waste landfills.

(f) Publicly or privately owned hazardous waste facilities.

(g) Industrial wastewater facilities and water works treating liquid wastes.

NR 536.05 ELIGIBLE AND INELIGIBLE COST. (1) ELIGIBLE COSTS. The following costs are eligible for grant assistance:

(a) Materials and labor needed to construct a minimum 2 foot thick layer of compacted soil.

(b) 6 inch layer of top soil.

(c) Seeding and mulching in the first year of construction.

(d) Gas vents.

(e) Construction of surface water drainage swales.

(f) Installation of monitoring wells as part of closure

(g) Professional engineering services.

(h) Additional items determined by the department as necessary and reasonable.

(2) INELIGIBLE COSTS. The following costs are not eligible for grant assistance:

(a) Installation of active gas venting systems.

(b) Gas probes.

(c) Materials and labor needed for the construction of remedial action items related to environmental contamination and gas migration.

(d) Monitoring wells ordered by the department to monitor the effectiveness of a groundwater remedial action.

(e) Routine monitoring of groundwater wells and gas probes.

(f) Any item that the department determines to be unnecessary and unreasonable.

(g) Items related to the maintenance of the final cover.

NR 536.06 GRANT APPLICATION. (1) GENERAL. (a) To be eligible for a cost share grant under this chapter, the eligible political subdivision shall submit to the department completed grant application forms. Two copies of the grant application shall be prepared. The 2 copies shall be submitted to the department's field office responsible for the area in which the facility is located. Eligible political subdivisions need to apply only once to receive funding for all subsequent years subject to a maximum of 10 years.

Note: Grant application forms may be obtained from the Department of Natural Resources, Bureau of Solid and Hazardous Waste Management, 101 S. Webster Street, Natural Resources Building, Madison, Wisconsin 53707.

(b) Eligible political subdivisions that submit an application by September 2, 1991 shall be eligible for cost share for the first year of the grant program.

(c) Eligible political subdivisions that submit an application between September 3, 1991 and September 2, 1992 shall be eligible for cost share for the second year of the grant program.

(d) Eligible political subdivisions that submit an application between September 3, 1992 and September 2, 1993 shall be eligible for cost share for the third year of the grant program.

(2) ITEMS TO ACCOMPANY GRANT APPLICATION. The following items shall be included along with the grant application:

(a) Closure construction documentation in accordance with s. NR 536.07.

(b) Closure cost documentation in accordance with s. NR 536.08.

NR 536.07 CLOSURE CONSTRUCTION DOCUMENTATION. (1) GENERAL. (a)

Facilities with a closure plan approval in accordance with s. NR 506.08 shall comply with the construction documentation report certification requirements detailed in that approval. At a minimum the information required in sub. (2) shall be included in the construction documentation report.

(b) Facilities without a closure plan approval shall comply with the report requirements detailed in sub. (2). The construction associated with the closure of a facility without a closure plan approval shall be certified either by a professional engineer registered in the state of Wisconsin or by the heads of the political subdivisions using DNR Form 4400-119:

"Documentation of Landfill Closure"

Note: Form 4400-119 may be obtained from the Department of Natural Resources, Bureau of Solid and Hazardous Waste Management, 101 S. Webster Street, Natural Resources Building, Madison, Wisconsin 53707.

(2) REPORT. The items that shall be included in the closure documentation report are as follows:

(a) Site location by quarter-quarter section or marked on a United States geological survey or plat book map or other mapping system acceptable to the department.

(b) A sketch of the site showing the locations of applicable site features such as areas that have been capped, drainage swales, gas vents, roadways, location of groundwater monitoring wells and gas probes, and any other pertinent features. The sketch shall be drawn to scale, with a north arrow, and include the location of a permanent landmark at the site.

(c) Documentation regarding thickness of the cap using either the results of a survey showing final grades prior to cap placement and after cap placements or a series of holes dug using a hand auger or similar device in a grid pattern over the cap. The holes shall be no more than 100 feet apart; a minimum of 5 holes evenly spaced over the waste area are necessary. Both the thickness of the compacted soil layer as well as the thickness of topsoil shall be measured. The holes shall be repaired using compacted soil or bentonite.

Note: The department recommends that a photograph be taken with a measuring device such as a yardstick or measuring tape in each hole.

(d) Documentation regarding top and side slopes of the landfill from a survey or use of a hand level or other slope measuring device.

(e) Photographs of the completed cap and status of vegetation in late spring, if available, or information regarding seed mix; seed, lime and mulch application rate; and nutrient testing for the top soil.

(f) Documentation regarding density of the compacted soil layer on a 100 foot grid pattern if required by the closure plan approved by the department.

NR 536.08 CLOSURE COST DOCUMENTATION. (1) GENERAL. A fiscal record related to the cost share grant application shall be maintained for a period of not less than 3 years after a final resolution of any audit. The grantee is responsible for maintaining records which identify adequately the source documentation.

(2) CONTRACTUAL WORK. A copy of all contracts, invoices and proof of payment shall be submitted for the purposes of establishing the cost of closure. Acceptable proof of payment may be either copies of cancelled checks or the contractors' statement showing receipt of payment.

(3) WORK PERFORMED BY THE POLITICAL SUBDIVISION'S OWN EMPLOYEES. An itemized statement for labor, material and equipment use shall be submitted for the purposes of establishing cost of closure. A detailed breakdown for each of labor, material and equipment use showing unit cost, unit used and total cost shall be submitted. Materials or supplies from outside purchases shall be supported by vender invoices and proof of payment as detailed in sub. (2).

NR 536.09 GRANT AMOUNT. (1) GENERAL. The following formula shall be used to calculate the grant amount.

$$\text{Grant amount} = \frac{\text{Eligible Closure Cost} - (\$10 \times \text{DOA population estimate})}{2}$$

in which:

DOA population estimate = 1990 population of the political subdivision as estimated by the Wisconsin department of administration under s. 16.96, Stats.

(2) If 2 or more political subdivisions jointly own a nonapproved facility then the total population of all the political subdivisions shall be

used to calculate the grant amount. If a political subdivision owns more than one nonapproved facility, then the eligible closure cost includes the cost of closing all eligible nonapproved facilities.

NR 536.10 GRANT PAYMENT. (1) GENERAL. Eligible political subdivisions submitting application by September 2 shall receive, by January 31 of the following year, a check either for 10% of the grant amount calculated using the formula in s. NR 536.09 or for the amount calculated using the formula in sub. (3) whichever is smaller. The grant award shall be redetermined annually based on total grant requests and fund availability.

(2) PAYMENTS. Eligible political subdivisions submitting applications by September 2, 1991 will receive 10 checks in 10 consecutive years. Eligible political subdivisions submitting applications during the period beginning on September 3, 1991 and ending on September 2, 1992 will receive 9 checks in 9 consecutive years. Eligible political subdivisions submitting applications during the period beginning on September 3, 1992 and ending on September 2, 1993 will receive 8 checks in 8 consecutive years. In the event the department has remaining grant money after the January, 1994 payment, the department will prorate the remaining grant money among those applicants which will receive less than 10 annual payments. The total amount of payment made to all applicants in each year may not exceed \$2,000,000 plus prior year unencumbered balances. The formula in s. NR 536.10(3) shall be used if 10% of the total grant amount requested exceeds \$2,000,000.

(3) PRORATION FORMULA. The proration factors in sub. (4) shall be used to prorate the payment if the summation of the grant awards to all applicants x 10% exceeds the available funding in any year. The available funding is the summation of \$2,000,000 and prior year unencumbered balances.

(4) PRORATION FACTORS

Proration Factor = A

$$A = \frac{\$ 2 \text{ million} + \text{Prior Year Unencumbered Balances}}{\text{Summation of All Grant Awards} \times 10\%}$$

Payment Calculation to Each Applicant = B

$$B = A \times \text{Grant Award to Applicant} \times 10\%$$

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on January 24, 1991.

The rules 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

March 8, 1991

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

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March 8, 1991

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

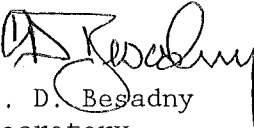
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Dear Mr. Poulson:

Enclosed are two copies, including one certified copy, of State of Wisconsin Natural Resources Board Order No. SW-74-90. These rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Urban Affairs, Environmental Resources 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.