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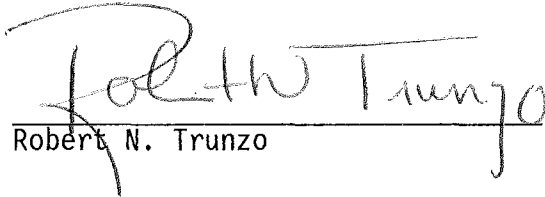
CERTIFICATE

STATE OF WISCONSIN)
DEPARTMENT OF DEVELOPMENT) SS

I, Robert N. Trunzo, Secretary and custodian of the official records of the Department of Development, do hereby certify that the annexed rules relating to the recycling loan and rebate programs were duly approved and adopted by this Department on July 16, 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 the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand as Secretary at 123 West Washington Avenue in the City of Madison, this 16th day of July, 1991.


Robert N. Trunzo

18-007

9-1-91

**ORDER OF THE DEPARTMENT OF DEVELOPMENT
CREATING CHAPTER DOD 23**

The Wisconsin Department of Development adopts an order to create Ch. DOD 23 relating to the recycling loan and recycling rebate programs.

Analysis Prepared by the Department of Development

Section 560.12, Stats. creates the recycling rebate program. Section 560.65 creates the recycling loan program. Section 560.12 (7) provides the department with the authority to adopt rules to implement the recycling rebate program. Section 560.685 provides the department with the authority to adopt rules to implement the recycling loan program.

The recycling rebate program can provide rebates for up to five years to eligible businesses that will increase their use of waste in the production of their products. The rebates can be provided for offsetting the cost for the purchase of equipment which is used exclusively in the process of recycling or for offsetting the increased costs incurred by increasing the use of waste in the manufacturing processes. In order to be eligible, the businesses must use wastes that are on the priority list established annually by the Department of Natural Resources and the Council on Recycling.

The recycling loan program can provide loans of up to \$750,000 to a new or expanding business for the following purposes: 1) the production of a product made from one or more materials recovered from postconsumer waste or equipment necessary to make the product, 2) the establishment or expansion of a diaper service which uses cloth diapers. In order to be eligible for a loan for the production of a product or for equipment, the business must use wastes that are on the priority list established annually by the Department of Natural Resources and the Council on Recycling.

The rules contain the eligibility requirements for the programs, the requirements for applications and the evaluation criteria that must be used when considering applications under these programs.

TEXT OF RULE:

SECTION I. Chapter DOD 23 is created to read:

CHAPTER DOD 23

RECYCLING PROGRAM

DOD 23.01 PURPOSE	DOD 23.06 CONTRACTS
DOD 23.02 DEFINITIONS	DOD 23.07 REPORTING AND AUDITING
DOD 23.03 MATCH REQUIREMENTS	DOD 23.08 ADMINISTRATION
DOD 23.04 RECYCLING LOAN PROGRAM	DOD 23.09 BOARD OPERATIONS
DOD 23.05 RECYCLING REBATE PROGRAM	DOD 23.10 APPLICATION MATERIALS

DOD 23.01 PURPOSE. The purpose of this chapter is to establish a procedure for the administration of the recycling loan program and the recycling rebate program by the department as provided by ss. 560.12 and 560.65, Stats.

DOD 23.02 DEFINITIONS. In this chapter:

(1) "Application" means a proposal from an eligible recipient which contains all the elements required in s. DOD 23.04 for the recycling loan program or s. DOD 23.05 for the recycling rebate program.

(2) "Board" means the development finance board as created by s. 15.155 (1), Stats.

(3) "Business" has the meaning contained in s. 560.60 (2), Stats.

(4) "Department" means the department of development.

(5) "Diaper service" has the meaning contained in s. 234.67 (1) (am), Stats.

(6) "Financial audit" means an audit performed in accordance with the standards adopted by the American institute of certified public accountants on the revenues and expenditures made in association with a project funded under this chapter.

(7) "Financing is unavailable from any other source on reasonably equivalent terms" means any of the following:

(a) Financing has been declined for the project.

(b) The maturity, rate or amount of available financing, or requirements related to the financing, such as collateral, equity, closing costs, service charges and repayment schedules offered on such financing are materially different from the financing available under s. DOD 23.04.

(8) "Job" has the meaning contained in s. 560.60 (10), Stats.

(9) "Postconsumer waste" has the meaning contained in s. 159.01 (7), Stats.

(10) "Qualified property" has the meaning contained in s. 560.12 (1) (ad), Stats.

(11) "Recycling" has the meaning contained in s. 560.12 (1) (ag), Stats.

(12) "Recycling enterprise" has the meaning contained in s. 560.12 (1) (am), Stats.

(13) "Solid waste" has the meaning contained in s. 144.01 (15), Stats.

(14) "Working capital" means funds for accounts receivable and inventory necessary to produce a product.

DOD 23.03 MATCH REQUIREMENTS. Applicants shall provide a match for the recycling loan received of not less than 25 percent of the project cost. The board shall require a higher match requirement to the extent that the financial documentation in the application indicates the ability on the part of the applicant to finance a greater share of the project.

DOD 23.04 RECYCLING LOAN PROGRAM.

(1) An eligible applicant for the recycling loan program is a new or expanding business which proposes to do any of the following:

(a) Produce a product made from one or more materials recovered from postconsumer waste or acquire equipment necessary to make the product.

(b) Establish or expand a diaper service.

(2) An application by an eligible applicant, other than a diaper service, shall be considered only if it proposes to use postconsumer waste that is on the state priority list established pursuant to s. 159.03 (1) (b), Stats.

(3) An application by an eligible applicant shall be in such form as the department may require and shall include all of the following:

(a) An explanation of how the proposed recycling project addresses the standards contained in ss. 560.605 (1) (a) to (e) 1., (1) (f) to (h), (2) (a) to (e) and (4).

(b) An explanation of how the proposed recycling project under (1) (a) addresses the items contained in sub. (5) or of how the proposed project under (1) (b) addresses the items contained in sub. (5) (a) and (d) to (g).

(c) Any other information the board may require to make a determination in accordance with the provisions of this chapter and Subch. V, Ch. 560, Stats.

(4) The board may not award a loan under this section unless, after considering the application and any other information it deems relevant, the board makes the determinations required under ss. 560.605 (1) and 560.65, Stats.

(5) The board shall consider pars. (a) to (g) before awarding a loan under this section for a project under sub. (1) (a) and shall consider pars. (a) and (d) to (g) before awarding a loan under this section for a project under sub. (1) (b). The board may choose not to award a loan if the proposed recycling project does not compare favorably to other applications on the following applicable items:

(a) The extent to which the project addresses the items contained in s. 560.605 (2) and (4), Stats.

(b) The priority placed on the postconsumer waste to be used as identified under s. 159.03 (1) (b), Stats.

(c) The volume of postconsumer waste that is on the priority list identified under s. 159.03 (1) (b), Stats. and the volume of waste that is generated in Wisconsin that will be used in relation to the amount of financing being requested.

(d) The ratio of state dollars requested to the number of jobs created or retained by the project.

(e) The ratio of annual wages resulting from the project to the state dollars requested.

(f) The ratio of capital investment to the state dollars requested.

(g) The ratio of the state dollars requested to the private dollars committed to the project.

(6) The board may award a loan of up to \$750,000 to an eligible applicant.

DOD 23.05 RECYCLING REBATE PROGRAM

(1) An eligible applicant for the recycling rebate program is a sole proprietorship, association, partnership or corporation to which all of the following apply:

(a) It is located in this state.

(b) It makes products using waste as a raw material or components made from solid waste, establishes and maintains policies and procedures that give preference for using solid waste generated in this state and for each year in which it proposes to receive a rebate at least 50% of the solid waste used will be generated in this state.

(c) It demonstrates that it has sufficient management expertise and marketing opportunities to remain self-sustaining after receiving recycling rebates.

(2) An application by an eligible applicant shall be considered only if it proposes to use waste.

(3) An application by an eligible applicant for the recycling rebate program shall be in such form as the department may require and shall include all of the following:

(a) An explanation of how the proposed recycling project addresses the items contained in sub. (6).

(b) A description of the long-term recycling policies of the business.

(c) If the applicant is applying for a rebate for qualified property the following items must be addressed:

1. A description of the equipment.

2. Verification of the date the equipment was placed in service for recycling purposes.

3. Documentation of the cost of the equipment.

(d) Any other information the department may require to make a determination in accordance with the provisions of subs. (4) and (5) and s. 560.12, Stats.

(4) (a) Through December 31, 1995, the department may award a one-time rebate to an eligible applicant for qualified property, placed in service in this state after December 31, 1990 in an amount not less than 5% of the cost of the qualified property and not more than the lesser of 10% of the cost of the qualified property or \$300,000. The amount of the rebate will be based on the increase in the amount of waste used by the recycling enterprise.

1. Qualified property eligible for rebates under s. 560.12 (5) (a), Stats., does not include property purchased with the proceeds from a recycling loan awarded under s. 560.65, Stats.

2. Qualified property eligible for rebates under s. 560.12 (5) (a), Stats., includes specialized equipment that is needed to process postconsumer waste in order to make a product.

3. The department annually shall set aside not more than 50 percent of the amount appropriated under s. 20.143 (1) (t), Stats. for rebates authorized under s. 560.12 (5) (a), Stats.

(5) (a) The department may award rebates to eligible applicants for other activities that address the recycling priorities established annually by the department of natural resources under s. 159.03 (1) (b), Stats.

1. The rebates will be based on the increased use of waste by an eligible applicant and the relative priority of that waste established under s. 159.03 (1) (b), Stats. in the year for which the applicant is eligible for a rebate.

2. Eligible recipients may receive rebates for up to five years.

(6) The department shall consider each of the following before awarding a rebate under this section and may choose not to award a rebate if the proposed recycling project does not compare favorably to other applications on these items:

(a) The expertise and experience of the management in producing and marketing similar products and general management experience.

(b) The potential market for the product and the competition in the market area.

(c) The technical viability of the process that will be utilized in the project.

(d) The financial viability of the business.

(e) The volume of waste that is on the priority list under s. 159.03 (1) (b), Stats. and that is generated in Wisconsin to be used in producing the product.

(f) The percentage of waste identified under par. (e) generated in this state that will be used to produce the product.

(g) The state dollars expended per unit of waste identified and used under par. (e).

(h) The likelihood that the project will result in a stable and long-term market for the eligible waste used.

(i) The potential long-term profitability of the product.

(j) Whether the project involves a business start-up or expansion.

(k) Whether the project will create or retain jobs.

(l) The value of capital investment in the project.

(7) Annually, the department shall publish the recycling priorities that have been established under s. 159.03 (1) (b), Stats., for that year. Annually, the department shall publish the total amount available for projects under the rebate program and the maximum amount available for a project.

(8) The department shall hold at least one competition annually for rebates authorized under s. 560.12 (5) and (6), Stats., and will make application materials available for applicants at least sixty days prior to the deadline for receipt of applications.

DOD 23.06 CONTRACTS. A successful applicant shall enter into a contract with the department for the purposes of implementing the proposed loan or rebate. The contract shall be signed by the secretary of development and the chief executive officer of the successful applicant, or by their authorized representatives. The department may void a contract and seek a return of any funds released under the contract for failure by the business to perform its obligations under the contract. Amendments to these contracts may be adopted by the written consent of both parties.

DOD 23.07 REPORTING AND AUDITING. Each successful applicant shall provide the department periodic financial and program reports. A financial audit and final program report shall be submitted at the end of the contract. The financial reports, audit and the program reports shall be submitted to the department by a date specified in the contract. The financial reports, financial audit and the program reports become the property of the department and are open to public inspection.

DOD 23.08 ADMINISTRATION. The department shall solicit applications, review applications, make recommendations to the board on the disposition of applications, authorize payments and otherwise implement contractual obligations entailed in loans made under the terms of this subchapter, monitor project activities, receive and review the financial reports and program reports submitted under s. DOD 23.07, and collect any repayments of loans from successful applicants. The department shall solicit applications, review applications, make funding decisions on applications, implement contractual obligations, authorize payments, monitor project activities, receive and review the financial and program reports submitted under s. DOD 23.07 for the rebate program. The department shall report semiannually to the chairs of the economic development standing committees of the legislature on the status of the program.


DOD 23.09 BOARD OPERATIONS. The board shall consider the recommendations of the department relating to the recycling loan projects. The board shall approve an application before the department may enter into a contract under s. DOD 23.06. The department shall maintain records of the board's proceedings and provide other staff support as may be necessary to the board.

DOD 23.10 APPLICATION MATERIALS. The department shall prepare application materials for the recycling loan and recycling rebate program which it may update as needed. The materials shall contain the application procedures, requirements and instructions for funding under this chapter.

NOTE: Application materials for the recycling loan and recycling rebate program are available from the Office of Development Finance, Department of Development, P. O. Box 7970, Madison, WI 53707, telephone number 608/266-2742.

EFFECTIVE DATE. The regulations set forth in this order shall be effective on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (intro.), Stats.

Date: 7/16/91

Agency: 
Robert N. Trunzo, Secretary