

## Chapter NR 186

## SOLID WASTE MANAGEMENT GRANT PROGRAM

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**NR 186.01 Purpose.** The purpose of these rules is to implement the solid waste management grant program pursuant to section 637 of chapter 418, laws of 1977 consistent with the Resource Conservation and Recovery Act of 1976 (Public Law 94-580). Through this program, financial assistance will be available to counties and regional planning commissions for preparing areawide solid waste management plans and to cities, towns, villages, and counties for performing adopted and approved areawide solid waste management plans.

**History:** Cr. Register, February, 1979, No. 278, eff. 3-1-79.

**NR 186.02 Applicability.** This chapter governs the general conditions, eligibility for application, application procedure, approval criteria, and priority system to implement the Wisconsin solid waste management grant program.

**History:** Cr. Register, February, 1979, No. 278, eff. 3-1-79.

**NR 186.03 Definitions.** For purposes of these regulations:

- (1) "Applicant" means "study applicant" or "planning applicant".
- (2) "Applicant for a specific solid waste disposal site feasibility grant" means a town, village, city, or county, or more than one town, village, city, or county acting jointly, which presents an application for funding a proposal to conduct a specific solid waste disposal site feasibility study which is consistent with a previously developed, department approved areawide solid waste management plan.
- (3) "Applicant for an areawide solid waste management planning grant" means a regional planning commission or a county, or more than one regional planning commission or county acting jointly, which presents an application for funding a proposal to develop an areawide solid waste management plan.
- (4) "Areawide solid waste management plan" means a solid waste management plan developed by a regional planning commission or a county or more than one regional planning commission or county acting jointly.
- (5) "Department" means the department of natural resources.
- (6) "Full state share" means the maximum state grant amounts authorized by statute. For planning applicants this is an amount equal to 50% of the total eligible cost of the plan, but shall not exceed \$50,000. For study applicants this is an amount equal to 25% of the total eligible

cost of the study, but shall not exceed \$50,000. The state share cannot reduce the applicant's share of the total project costs to less than 25% for either a plan or study.

(7) "Plan" means "areawide solid waste management plan".

(8) "Planning applicant" means "applicant for an areawide solid waste management planning grant".

(9) "Planning area" means the geographical area for which the plan is prepared. For this chapter, the planning area shall be, at a minimum, the area within a county.

(10) "Sludge" means any solid, semi-solid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility, or any other such waste having similar characteristics and effects.

(11) "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under ch. 147, Stats., or source, special nuclear or by-product material as defined under s. 140.52, Stats.

(12) "Solid waste management" means the systematic administration of activities which provide for the source reduction, source separation, storage, collection, transportation, transfer, processing, treatment, resource recovery and disposal of solid waste.

(13) "Solid waste management plan" means a plan prepared pursuant to NR 185.07 to provide for solid waste management.

(14) "Specific solid waste disposal site feasibility study" means the study which describes the physical conditions of the proposed site including a description of the site's topography, soils, geology, ground and surface waters, and other features of the site and surrounding area. The study shall also include preliminary engineering design concepts including the proposed design capacity of the site and an indication of the quantities and characteristics of the wastes to be disposed of.

(15) "Study" means "specific solid waste disposal site feasibility study".

(16) "Study applicant" means "applicant for a specific solid waste disposal site feasibility grant".

(17) "Total eligible cost" means the sum of all direct and department approved indirect costs for the applicant as anticipated and specified at the time of application but excludes costs for acquisition of or interest in land, site preparation, operation, abandonment, or preparation of a plan of operation, and any subsidies for the price of recovered resources. Direct costs include, but are not limited to salaries (fringe benefits), mileage, equipment usage, consultant's fees, printing and copying but shall not include costs for purchase of capital items. Indirect costs may be

allowable to the extent of those previously approved by other state or federal agencies and must be separately agreed to in the grant agreement.

**History:** Cr. Register, February, 1979, No. 278, eff. 3-1-79.

**NR 186.04 Severability.** If any section, paragraph, phrase, sentence or clause of this chapter is declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

**History:** Cr. Register, February, 1979, No. 278, eff. 3-1-79.

**NR 186.05 General conditions.** Funds available through the Resource Conservation and Recovery Act of 1976 shall be awarded according to the intent of ss. 144.781 to 144.784, Stats., and guidelines and regulations promulgated by the environmental protection agency and the department through the Resource Conservation and Recovery Act of 1976. Nothing in this chapter shall influence, affect or modify department programs, priorities or procedures relating to compliance with applicable solid waste management regulations. All available federal funding for areawide plans and feasibility studies from the Resource Conservation and Recovery Act of 1976 shall be utilized to supplement and increase the levels of funding available under this program.

**History:** Cr. Register, February, 1979, No. 278, eff. 3-1-79.

**NR 186.06 Eligibility for application.** (1) **GENERAL.** No grants may be distributed for areawide solid waste management plans or specific solid waste disposal site feasibility studies which have, as their primary goals, disposition of hazardous substances as defined under s. 144.30(10), Stats., hazardous waste as defined under s. 144.61(4), Stats., sludge, or source material as defined under s. 140.52(10), Stats., or by-product material or special nuclear material as defined under ss. 140.52(3) and (11), Stats. Plan or study proposals including management of the above materials are not eligible for funding if the proposals will cost in excess of 20% more than an equivalent proposal addressing only fundable waste types.

(2) **AREAWIDE SOLID WASTE MANAGEMENT PLANS.** To apply for an areawide solid waste management planning grant, the applicant shall satisfy the following minimum eligibility criteria:

(a) The applicant shall be either a regional planning commission or a county, or more than one regional planning commission or county acting jointly and be designated by the governor to act as an areawide solid waste planning agency.

(b) The applicant must not previously have been a planning grant recipient under this program.

(3) **DISPOSAL SITE FEASIBILITY STUDIES.** To apply for a feasibility study grant, the applicant shall satisfy the following minimum eligibility criteria:

(a) The applicant shall be a town, village, city or county, or more than one town, village, city or county acting jointly.

(b) An areawide solid waste management plan for the study area shall have been approved by the department under chapter NR 185, Wis. Adm. Code, and a resolution stating the entity's intent to implement the

plan shall be passed by the county or regional planning commission or a group of counties or regional planning commissions for which the plan was prepared.

(c) The applicant must intend to complete detailed investigations of potentially acceptable disposal sites consistent with a department-approved areawide solid waste management plan.

**History:** Cr. Register, February, 1979, No. 278, eff. 3-1-79.

**NR 186.07 Application process and content.** (1) The general application procedures to be followed by all applicants and the department are:

(a) Applications shall be submitted to the department after December 1, and before January 2 of the next year, and shall be made on forms supplied by the department. One copy of the application shall be sent to the appropriate regional planning commission for advisory comment consistent with their clearinghouse functions.

(b) The department shall decide the eligibility and the priority of plan or study grant applications and notify applicants in writing by April 1 each year.

(c) Successful applicants shall notify the department in writing of award acceptance by April 21 of the same year. Applicants who fail to do this shall be ineligible for the award and these grant funds shall be made available to other eligible applicants.

(d) The department shall commit all funding by May 1 of the same year based on acceptance of each grant by each successful applicant.

(2) Areawide solid waste management plan applicants. Planning applicants shall show in writing:

(a) A designation by the governor as an areawide solid waste management planning agency.

(b) A statement of the overall plan objectives.

(c) The methods proposed to develop the areawide solid waste management plan pursuant to chapter NR 185, Wis. Adm. Code.

(d) A statement of the estimated total costs of developing the plan with adequate documentation of how the costs were arrived at.

(e) The timetable for plan development.

(f) A commitment that no grant monies shall be used for any acquisition of land or interest in land, or any site preparation, operation, or abandonment, or for any subsidies for the price of recovered resources.

(g) For regional planning commissions, signed agreements shall be obtained from the counties located in the planning area which identify the specific solid waste planning responsibilities of each county and the regional planning commission. Regional planning commissions acting jointly shall include a signed agreement which specifically identifies the responsibilities of each in the joint planning effort.

(h) Counties, acting jointly, shall include a signed agreement which specifically identifies the solid waste planning responsibilities of each in the joint planning effort.

(3) Specific solid waste disposal site feasibility study applicants. Study applicants shall show in writing:

(a) Documentation that an areawide solid waste management plan has been approved under chapter NR 185, Wis. Adm. Code, for the area by the department and adopted by the county or regional planning commission or a group of counties or regional planning commissions for which the plan is intended.

(b) A resolution indicating the applicant's intent to implement the solid waste management plan approved under chapter NR 185, Wis. Adm. Code.

(c) A statement of the overall study objectives.

(d) The methods proposed to conduct the specific disposal site feasibility study. These shall be in accordance with administrative codes promulgated pursuant to chapter 377, laws of 1977.

(e) A statement of the estimated total costs of conducting the study with adequate documentation on how the costs were arrived at.

(f) The timetable for study completion.

(g) That the site(s) to be investigated meet the following criteria:

1. Land availability - The site shall be owned by the grant applicant or an option on the property shall exist that allows the grant applicant to complete the feasibility study and develop and operate a land disposal facility if approved by the department.

2. Locational acceptability - a. Based on a written department inspection report, the site shall have the potential to meet all state solid waste management locational requirements and other environmental requirements of the department.

b. Based on a written department inspection report the entity shall receive a written department recommendation that the site merits conducting feasibility work described in chapter 377, laws of 1977 and applicable administrative code.

c. A letter from the state historical preservation officer concerning the possibility of the site being an archeological or historical landmark or area.

(h) The feasibility study applicant shall submit one copy of the grant application to the appropriate areawide solid waste management planning agency for comment on the proposed study's applicability to the solid waste management plan. The areawide planning agency shall submit written comments to the department within 30 days of receipt of the application. If the applicant for a feasibility study grant is the same agency that is responsible for the solid waste management plan, the department shall determine whether the study is consistent with the areawide solid waste plan.

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(i) A commitment that no grant monies shall be used for any acquisition of land or interest in land, or any site preparation, operation, or abandonment, or for any subsidies for the price of recovered resources.

(4) The application and award time schedule prescribed by this section may be modified by the department if it determines that such modification would be beneficial for the applicant. Prior to such modification the department shall consider such factors as the acquisition of funding for the project from sources other than the state and coordination with local budgetary planning processes.

**History:** Cr. Register, February, 1979, No. 278, eff. 3-1-79.

**NR 186.08 Approval criteria.** (1) All applicants shall submit the plan or study to the department for review and approval consistent with chapters 377 and 418, laws of 1977, and rules adopted pursuant to these chapters. A copy of the plan shall also be sent to the appropriate regional planning commission or other planning agency for their comment as to whether the plan is in conflict with any plans adopted by the agency.

(2) Approval criteria for areawide solid waste management plans. In evaluating the completed plan, the department shall consider the following factors:

(a) The plan's consideration of the existing and anticipated solid waste management practices and needs of all units of government which are in the planning area.

(b) Promotion, wherever possible, of resource conservation and recovery practices.

(c) Indication of probable disposal site locations to satisfy existing and anticipated solid waste disposal needs.

(d) Information contained in section NR 185.07, Wis. Adm. Code.

(3) Approval criteria for feasibility studies. In evaluating the completed feasibility study, the department shall consider the following factors:

(a) Identification of one or more sites that are feasible for development as a sanitary landfill.

(b) Information contained in the administrative codes promulgated pursuant to chapter 377, laws of 1977.

**History:** Cr. Register, February, 1979, No. 278, eff. 3-1-79.

**NR 186.09 Financial assistance.** (1) General considerations. The following criteria apply to both planning grants and to feasibility study grants:

(a) No awards made under this program shall restrict or prevent agreements between grant recipients and private enterprise for construction, operation, or abandonment of solid waste sites and facilities.

(b) The grant recipient's share of preparing either the plan or feasibility study shall not be less than 25% of the total eligible costs of the project.

(c) All available funding from the Resource Conservation and Recovery Act of 1976 (Public Law 94-580), for areawide planning and disposal site feasibility studies shall be utilized by the department to supplement and increase the levels of funding available under this program to the maximum extent possible.

(d) The grant period shall be the one year period after the date of acceptance, unless the department determines, on a case-by-case basis, that a time extension for one additional year is warranted.

(e) Any additional expenditures by the grant recipient over the amount of the original estimated project costs shall not be considered for matching payment by the department. The original award amount specified in the approved grant contract is a sum certain amount. The scope of the project may be amended after acceptance of the grant award, but this amendment is subject to department approval. However, any cost increases related to changes in the project's scope are ineligible for matching state monies.

(f) The grant award monies are matching funds, and final project accounting shall show grant expenditures at the same percentage as other funds for the project.

(g) Only costs incurred during the grant period shall be eligible for cost sharing under this program.

(h) After an applicant has accepted a grant offer, the department shall make available to the applicant 75% of the total amount of the grant. The remaining 25% of the total amount of the grant shall be paid to the applicant only if the final plan or study and final accounting of project expenditures have been approved, in writing, by the department.

(i) Within 60 days after project completion or the end of the grant period, a final accounting of project expenditures shall be submitted to the department.

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

(k) The grant applicant shall maintain appropriate records to document expenditures made during development of the plan or study. These records shall be made available to the department upon request.

(1) The department may terminate the grant and the grant recipient shall return the full grant amount if the department determines that:

1. There has been no substantial performance of the plan or study work by the grantee, without good cause;
2. There is substantial evidence the grant was obtained by fraud; or
3. There is substantial evidence of gross abuse or corrupt practices in the administration of the project.

(2) Areawide solid waste management planning grants.

(a) The department may make grant payments to planning applicants which provides up to 50% of the estimated total eligible cost of the applicant's areawide solid waste management plan. The grant shall not exceed \$50,000. Any planning grant recipient is not eligible to receive

additional planning grants under this chapter, however, both a county and a regional planning commission may each receive one planning grant for the same area under this section provided the plan objectives are substantially different.

(b) Reimbursement. 1. General. To promote continuation of solid waste management planning under this program, a system of reimbursement is provided according to the following procedures.

2. Eligibility. The reimbursement process shall be implemented only when the fiscal demand of eligible applications exceeds the amounts of funds available under this program. To be eligible for reimbursement, an applicant must meet the same requirements as are established in this chapter for regular grant projects.

3. Reimbursement process. a. For those projects which are eligible for reimbursement funding, the department may enter into a reimbursement agreement. All reimbursement agreements shall be made on forms prepared by the department. The reimbursement agreement shall be signed by the authorized administrator of the department and will set forth the terms and conditions of the agreement. The terms and conditions shall specify that reimbursement will be made only upon the appropriation of sufficient funds by the legislature in a subsequent year of the program.

b. The state grant administration procedures for reimbursement shall follow the same processes as established in this chapter for regular grants.

4. Reimbursable costs. Only estimated costs anticipated at the time of application and incurred after the reimbursement agreement is entered into shall be eligible for cost sharing under this program.

(3) Specific solid waste disposal site feasibility study grants. The department may award a grant to feasibility study applicant which provides up to 25% of the estimated total eligible cost of the applicant's feasibility study. The grant shall not exceed \$50,000. An applicant may receive more than one feasibility study grant provided that no more than one application is submitted for each year of this program.

**History:** Cr. Register, February, 1979, No. 278, eff. 3-1-79.

**NR 186.10 Priority list.** (1) Each year planning applicants shall, to the greatest extent possible, receive first consideration for approval and funding by the department. Each year feasibility study applicants shall be considered for funding only after the department has completed the grant award process for planning applicants.

(2) Factors and scoring methods used by the department in developing funding priorities for individual plans and studies are:

(a) Current disposal practices and their suitability for environmentally sound disposal. The score shall be a number equal to 100 minus the percentage of applicant population served by disposal sites within the county approved by the department after January 1, 1975 not classified as an open dump and which can provide disposal for 2 years from each year's grant application date.

(b) Waste generation volumes and types of wastes in the area. The score shall be a number equal to 100 times the logarithm of the applicant's population divided by the logarithm of the population of the applicant with the largest population. The latest population projections provided by the department of administration will be used for this calculation.

(c) Existing areawide planning activities and extent of existing or previously developed plans. The score shall be a number equal to 50 points for an approved chapter NR 185, Wis. Adm. Code, plan or 100 points for no approved chapter NR 185, Wis. Adm. Code, plan.

(d) Extent and availability of alternative funding sources. The score shall be a number equal to 100 minus the percentage of the total project costs paid by alternate funding sources.

(e) Size of the area to be served. The score shall be a number equal to 100 times the applicant's area divided by the area of the applicant with the largest area.

(3) Priority lists. (a) Each year, after applications are received, the department shall rank applicants in descending order. For each applicant, a point value from 0 to 100 will be calculated for each factor in sub. (2) above and multiplied by the weighing values contained in par. (b) below. Scores for each factor will be summed for the applicant and all applicants will then be ranked in descending order. This priority list will be used for grant awards. The department shall make the funding priority list available to all applicants.

(b) Weighing values for priority list factors

Factor	Weighing Value	
	Plans	Studies
Current disposal	4	4
Waste generation	2	3
Existing planning	3	0
Alternate funding	1	1
Size of area	1	1

(4) The department will attempt to award all available monies during each year of the program. Should the amount of funds available be less than the total demand of all applications, the department will first make full state share awards to planning applicants by descending priority list rank and secondly to study applicants by descending priority list rank. Applicants who do not receive funding for their project may apply in future program years.

**History:** Cr. Register, February, 1979, No. 278, eff. 3-1-79.

**NR 186.11 Exemptions.** An entity may request exemptions from any of the requirements of this chapter by submitting an adequate written request and justification. In reviewing exemption requests, the department shall take into account such factors as population, size of the area being served, types, amounts, and sources of waste, and other significant factors presented and documented by the entity. Exemption requests

shall be reviewed with particular regard to any potential nuisance, hazard to public health and safety, or potential degradation of the environment. Any exemptions granted shall be in writing by the department, stating reasons therefor.

**History:** Cr. Register, February, 1979, No. 278, eff. 3-1-79.