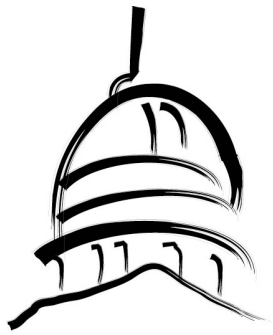
Contaminated Land and Brownfields Cleanup Programs



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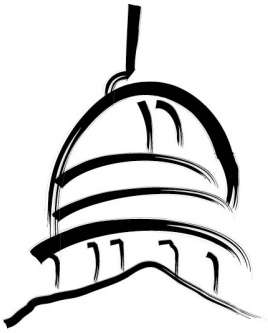
Contaminated Land and Brownfields Cleanup Programs



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The cleanup of hazardous substances discharges and environmentally contaminated land in Wisconsin is regulated through a combination of federal and state laws. Chapter 292 of the Wisconsin statutes regulates remedial action at sites with discharges of hazardous substances. This generally includes any substance which may cause, or significantly contribute to, an increase in mortality or serious irreversible or incapacitating reversible illness, or which may pose a substantial threat to human health or the environment.

The Department of Natural Resources (DNR) is responsible for implementation of the state's direct response hazardous substances cleanup programs, establishment and administration of cleanup standards for contaminated groundwater and soil and implementation of federal programs in cooperation with the Environmental Protection Agency (EPA). The Department of Commerce (Commerce) and Department of Agriculture, Trade and Consumer Protection (DATCP) also administer contaminated land cleanup programs. This paper describes the programs administered by these agencies, including program requirements, funding sources and state program expenditures.

These federal and state programs are intended to clean up sites with spills, leaks, abandonment and discharge of hazardous substances. The responsible party (the person, company or governmental entity that may be held responsible for the hazardous conditions) or DNR makes an initial assessment of the site, which may be in cooperation with local emergency government or EPA staff, to determine if emergency response is needed. DNR then works with site owners, communities and other governmental entities to attempt to ensure that contaminated soils, debris, groundwater and surface water are restored to a condition that is safe.

The majority of hazardous substance cleanups underway in Wisconsin are being financed by the owner of a contaminated property or the party who caused the contamination. When the responsible party finances a cleanup, DNR may provide technical review, management and oversight and if necessary, enforcement. When responsible parties do not finance the cleanup, DNR can allocate state and federal funds to do so, initiating cost recovery later, if the site is a priority for use of those funds.

Several statutory changes have been made in recent years to promote the cleanup and development of brownfields sites, which are abandoned, idle or underused industrial or commercial properties, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination. This paper describes the financial assistance programs available to persons who clean up brownfields.

Separate informational papers, prepared by the Legislative Fiscal Bureau, describe several related programs. See Paper #59, "Petroleum Environmental Cleanup Fund Award (PECFA) Program," Paper #61, "Environmental Improvement Fund" (for a description of the land recycling loan program) and Paper #82, "State Economic Development Programs Administered by the Department of Commerce" (for a description of the brownfields grant program).

CHAPTER 1

FEDERAL CLEANUP INITIATIVES ADMINISTERED BY DNR

The four key federal contaminated land cleanup programs utilized in Wisconsin are: (a) the Superfund program; (b) the leaking underground storage tank (LUST) program; (c) federal brownfields programs; and (d) Resource Conservation and Recovery Act (RCRA) program to cleanup hazardous waste sites. The programs are administered by DNR's remediation and redevelopment program, except that Commerce administers cleanup at medium- and low-risk LUST sites.

Superfund Cleanup Program

The federal Superfund program was established in 1980 by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986. The Superfund program was up for consideration of reauthorization in 1995. While Congress has not reauthorized the program, the program has continued to operate utilizing a combination of revenue sources, including interest on the Superfund trust fund balance, general purpose revenues and cost recoveries. Superfund includes three cleanup components: (a) an emergency response program for sites posing an immediate and substantial danger; (b) a site assessment program to evaluate potential Superfund sites; and (c) a remedial action program for longer-term cleanup remedies.

Emergency Response Program

Immediate actions to remove hazardous substances can be carried out by EPA under its emergency response program. Immediate removals are triggered by significant emergencies involving hazardous substances, such as fires, explosions, spills or direct human contact. Immediate removals involve: (a) minimizing unacceptable exposures at the site as necessary to protect life and human health; (b) stopping the hazardous release; and (c) minimizing the damage or threat. Specific responses may include: collecting and analyzing samples; controlling the release; removing hazardous substances from the site and storing the substances; treating or destroying the substances; providing alternate water supplies; deterring the spread of the pollutants; and evacuating threatened citizens.

EPA has contracted with private firms to perform emergency response and removal work. In Wisconsin, EPA has provided emergency response assistance at over 74 sites as of June 30, 2002, with costs totaling more than $21 million. The federal Drug Enforcement Agency also provided resources to cleanup chemicals resulting from the seizure of illegal drug labs. Some examples of these responses include:

• *Dane County*. EPA contracted to provide emergency assistance in securing the site of an explosion and fire at a chemical plant in Oregon. The responsible party then provided the site cleanup.

• *Milwaukee*. EPA conducted a cleanup of asbestos materials and soils contaminated by polychlorinated biphenyls (PCBs) at a site where illegal disposal and drug activities had occurred. After the cleanup, a local business purchased and remodeled the property.

• *Rock County*. EPA emergency response efforts at several abandoned contaminated properties have helped the properties become redeveloped and placed back on the property tax rolls.

• *Sheboygan County*. EPA worked with responsible parties to cleanup tanks, drums containing chemicals and contaminated soils at an abandoned furniture manufacturer.

• *Fond du Lac County*. EPA provided cleanup along a riverbank of contaminated soil associated with a former solvent storage facility. The area is being redeveloped as a riverwalk.

• *La Crosse County*. EPA conducted the removal of buried battery casings and soil contaminated with lead and polychlorinated biphenyls (PCBs) at a former auto reclaiming facility.

• *Walworth County*. EPA worked with responsible parties to decontaminate a building and excavate contaminated soils at an abandoned plating facility.

Site Assessment Program

Except where an emergency response is required, a site must be listed on the national priority list (NPL) in order to be considered for federal remedial action. The site assessment process involves gathering historical and field data to determine if the site poses a great enough risk for nonemergency Superfund response. The information gathered during the site assessment is used to assign a score, based on EPA criteria related to actual contamination and health and environmental effects. If a site scores above a designated cutoff, it is eligible for the NPL and is nominated by DNR.

After the site has been nominated, EPA considers the priority of the site and decides whether it should be proposed for inclusion on the NPL. If proposed, following a public comment process, a site is listed on the NPL as a Superfund site. As of September, 2002, 1,239 sites nationwide had been evaluated and placed on the NPL. Thirty nine (3%) of these sites are in Wisconsin. Appendix I lists the Wisconsin sites and their locations.

EPA may also propose that a site be listed on the NPL. In the summer of 1998, EPA proposed listing a 39-mile stretch of the Fox River from Lake Winnebago to Green Bay on the NPL because of contamination from PCBs (polychlorinated biphenyls) and held a 60-day public comment period. DNR and some private parties funded a pilot project to dredge PCB-contaminated soils from the river. EPA has postponed a decision to list the site on the NPL as long as progress is being made in the site investigation and the selection of a remedial action. EPA has provided funds to DNR for preparing the remedial investigation and feasibility study for the site (RI/FS), the proposed plan and the record of decision (ROD). In the fall of 2001, DNR and EPA issued the draft RI/FS and proposed plan for the river. During the subsequent comment period of over 100 days, DNR received 4,800 comments. DNR is preparing a summary in response to the comments. DNR expects to issue the ROD for Little Lake Butte des Morts and the Appleton to Little Rapids portions of the River by early 2003 and for the remaining portions of the River and for Green Bay in the summer of 2003.

Before a site is listed, DNR attempts to identify the responsible party or parties and have that party undertake the cleanup process. If these efforts are successful, the case is managed by DNR under the state's environmental repair program and the site is generally not placed on the NPL. If these efforts are unsuccessful or the responsible party is not known,

the Superfund listing process for that site continues. After a site is listed, EPA contracts with a firm to conduct a search for potentially responsible parties to fund the remedial action. If a responsible party is found after listing on the NPL, the responsibility for funding the cleanup is transferred from Superfund to the responsible party.

Under the Superfund law, EPA may establish liability of a responsible party if it can prove that the party disposed of hazardous substances at a particular site and that those substances are now being released from the site. At sites with multiple responsible parties, Superfund can require all identified responsible parties to fund the remedial action. If some responsible parties cannot be identified, or are identified and cannot pay (for example, are bankrupt), the remaining responsible parties may be held liable for all of the cleanup costs. For example, if a responsible party caused 50% of the contamination, and no other responsible parties are identified who can pay, that party may be held liable for all of the cleanup costs.

In the fall of 1999, EPA provided funds for DNR to conduct a site discovery program. This program is used to screen sites for inclusion on the Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS), EPA's list of potential hazardous waste sites. Sites on this list go through the traditional Superfund site assessment process to determine if there is a need to conduct a cleanup action. The screening is accomplished by conducting a file review, site visit and then making a screening decision and recommendations for future activities. DNR is currently focusing the pre-CERCLIS screening effort on the Registry of Waste Disposal Sites in Wisconsin to help determine the general status and potential implications of these waste disposal areas. DNR is also using this effort to identify sites with human health and/or environmental risks, identify sites where no action is needed and prioritize sites for state-funded response activities. In addition, the screening will determine whether a site moves from the Registry to either the Bureau for Remediation and Redevelopment Tracking System (BRRTS) and/or the Solid and Hazardous Waste Information Management System (SHWIMS) database or is archived.

Brownfields Environmental Assessment Program

DNR received approval from EPA to undertake a pilot Brownfields Environmental Assessment Program (BEAP) between 1996 and 2000 to conduct environmental assessments of brownfield sites instead of traditional Superfund site assessment activities. Brownfields sites are contaminated properties that are not being utilized to their full economic potential, regardless of their environmental or public health priority.

Through BEAP, DNR provided direct staff assistance to municipalities in the assessment of contaminated properties whose owners were bankrupt or tax-delinquent. Between 1996 and 2000, 43 sites were assessed through the BEAP. Information obtained from these assessments provided the participating municipality with information about whether or not contamination was known at the property in question. DNR determined what actions would be necessary to comply with state law, in order to clear the way for redevelopment of the properties. These assessments were intended to act as a catalyst to promote further investigation and voluntary cleanups at brownfield sites by providing more information about the environmental conditions at the property.

DNR allocated some staff funded under the federal Superfund's site assessment program to conduct the assessments. EPA and DNR invested approximately $30,000 to $60,000 in each selected site, although highly complex or very large sites required more time and money. EPA provided approximately $1,000,000 annually for the program during 1996 through 1998 and approximately $150,000 in each of 1999 and 2000. DNR provided

$50,000 to $100,000 annually through the environmental fund during the same five years.

Remedial Action Program

EPA and DNR will negotiate with potentially responsible parties to fund the investigation and cleanup before spending any federal or state dollars on the site. Responsible parties are currently partially or fully financing investigations and cleanup at 28 Wisconsin Superfund sites and Superfund revenues are financing work at the remaining 11 Wisconsin sites. Appendix I lists these sites. The remedial action activities have been completed at 32 of the 39 Wisconsin sites.

To date, if a site is financed with Superfund dollars, EPA has generally taken the lead role, although DNR has assumed the lead role at three sites funded with federal dollars. In cases where the responsible parties agree to pay for the necessary work, those parties may request that DNR take the lead role. Due to differences in agency procedures and the proximity of DNR staff to the sites involved, DNR is often able to facilitate the negotiation and cleanup process more quickly than EPA. However, if DNR takes the lead role in a case financed by a responsible party who fails to provide for appropriate cleanup, the lead may need to be renegotiated after EPA appropriates funding for that site.

Investigation and Feasibility Study

After the site is listed and the preliminary negotiations are completed, a private consultant conducts a remedial investigation and feasibility study to determine the nature and extent of the problem and methods of dealing with the problem. The study considers engineering, environmental and economic factors to determine the cleanup procedures that will protect public health and the environment, meet cleanup requirements and be the most cost-effective method for a particular site.

Cleanup

After review and approval of the remedial investigation and feasibility study, the site enters the remedial design and action phase. EPA or DNR (for sites where DNR has assumed the lead role) approves the cleanup alternative. EPA and the state must select remedial actions that meet federal and state environmental standards and that result in permanent cleanup. Alternative treatment technologies (such as alternatives to excavating contaminated soil and hauling it to a landfill) must be used where technically feasible. If any hazardous substances remain on the site after cleanup, the site must be reviewed every five years.

Specific actions may include the removal of containers containing wastes from a site, the installation of a clay or synthetic cap over the site, removal of contaminated soil, the construction of ditches and dikes to control surface water, the construction of drains and liners or extraction wells to treat groundwater. Private contractors perform the bulk of the work under federal or state supervision.

Other State and Federal Requirements. Under Superfund, remedial actions must meet the substantive requirements of all other federal and state environmental laws and state facility siting laws, if applicable. These include the maximum contaminant levels established under the federal Safe Drinking Water Act, administrative code Chapter NR 140 groundwater quality criteria, NR 103, 104 and 105 water quality criteria, the administrative code NR 700 series environmental cleanup criteria and federal Clean Water Act water quality criteria. Remedial actions selected under Superfund are specifically exempt from the administrative permit requirements of applicable laws for all on-site activities. EPA may waive standards under specified circumstances.

Interim Remedial Actions. In addition to the long-term remedial actions, EPA may choose to

implement interim measures to minimize damages or risks and preclude future emergency response actions. For example, construction of a new water supply system needed because of groundwater contamination would be an initial remedial measure, and finding and stopping the source of the groundwater contamination would be the long-term cleanup solution. Interim measures have been implemented at several Superfund sites in Wisconsin. Interim remedial actions are sometimes accomplished by breaking a site into "operable units," and taking a distinct action at one or more of the operable units prior to selecting the long-term or final remedial action at the site, or by doing an emergency removal action, such as removing drums of hazardous waste.

Federal Funding

Federal funding for the Superfund program came from various taxes on crude oil and chemical feedstocks, cost recoveries from site operators, generators and current and past owners, interest and general revenues. Superfund taxing authority expired on December 31, 1995, and had not been reinstated as of January 1, 2003.

Superfund pays 90% of the cost of treatment and other measures until completion of the cleanup or until 10 years after operation of those measures begins for groundwater restoration. The state pays the remaining 10%. In most cases, after the first year of post-cleanup maintenance, the state pays 100% of all operation and maintenance costs. At waste sites operated by a state or its political subdivisions, Superfund pays 50% and the state pays 50%.

State Funding

In Wisconsin, the state share comes from the environmental management account of the environmental fund or from general obligation bonds authorized for this purpose. DNR is authorized, under the environmental repair program, to take actions to implement the Superfund program in the state. The Department is required to review the remedial investigation and feasibility study to evaluate proposed repair actions. The Department may not commit the required state share unless it agrees with EPA's assessment of the effectiveness of the proposed repair action. Federal and state expenditures for Superfund cleanup projects in Wisconsin are shown in Table 1.

Table 1: State and Federal Expenditures for Wisconsin Superfund Cleanup Projects through June 30, 2002

Expenditures	State Share	Federal Share
Pentawood Products (Burnett County)	$219,700	$1,977,100
Schmalz Landfill (Calumet County)	431,000	4,004,000
Stoughton City Landfill (Dane County)	1,000,000	1,000,000
Oconomowoc Electroplating Co. (Dodge County)	1,440,000	19,255,500
Eau Claire Municipal Well Field	175,700	5,868,000
Onalaska Municipal Landfill (La Crosse County)	4,200,000	4,620,000
Mid-State Disposal Landfill (Marathon County - Special agreement with potential responsible party, federal expense not required)	992,000	0
N.W. Mauthe Co. (Outagamie County)	626,200	5,652,000
Scrap Processing Inc. (Taylor County)	61,100	549,900
TOTAL EXPENDITURES	$9,145,700	$42,926,500
Committed but not yet Expended		
Pentawood Products	$555,000	$4,994,800
Stoughton City Landfill	1,955,000	1,955,000
Oconomowoc Electroplating Co.	970,500	2,439,000
Onalaska Municipal Landfill	550,000	130,000
N.W. Mauthe Co.	313,100	2,809,000
Scrap Processing Inc.	122,200	1,100,100
TOTAL COMMITTED BUT NOT EXPENDED	$4,465,800	$13,427,900

State law requires DNR to promulgate rules that will determine whether or not a municipality will be required to pay a portion of the state share at a Superfund cleanup site. Administrative rule Chapter NR 730 includes criteria for DNR's expenditure of moneys for Superfund state cost share purposes and to determine a municipality's responsibility to pay a share of the state's

Superfund cost share in cases where a municipality will benefit from the proposed remedial action.

NR 730 states that DNR may require a municipality to pay up to 50% of the amount expended by DNR for the state's Superfund cost share, but not more than $3 per capita in any year. DNR determines the portion of the state's Superfund cost share a municipality shall be required to pay based on the following factors: (a) the municipality's property value per capita divided by the average property value per capita for all Wisconsin municipalities; (b) the municipality's per capita income divided by the average per capita income for all Wisconsin municipalities; and (c) the benefit of the remedial action to the municipality, defined as the cost savings to the municipality resulting from implementation of the remedial action and measured as a percentage of the most recent annual budget.

Leaking Underground Storage Tank Program

The federal leaking underground storage tank (LUST) trust fund was established in 1986 to provide funding for states to manage the cleanup of leaks from underground petroleum storage tanks. EPA provides federal funding to states to manage the cleanup at LUST petroleum sites. EPA can also choose to take the lead in cleanup of a LUST site.

Prior to 2001, DNR acted as the lead state agency in all cleanup actions and was the state recipient of the EPA LUST grant. Beginning with the federal year 1999 grant, a portion of the federal grant was transferred to the Department of Commerce to administer cleanup at medium- and low-risk petroleum sites. Beginning in federal fiscal year 2001, DNR and Commerce received separate LUST grants from EPA.

DNR is authorized to enforce owner-financed cleanups at high-risk LUST petroleum spills and at any non-petroleum spills and to manage cleanups in cases where the owner is unknown or cannot or will not finance the necessary action. Commerce is authorized to administer cleanup at low- and medium-risk sites that are contaminated by petroleum products. As with the Superfund program, actual cleanups are carried out by private contractors. Similar to the Superfund program, federal LUST program dollars may be used for emergency action, investigation and cleanup work in cases where the responsible party is unknown or cannot or will not finance appropriate actions.

Major exclusions from the federal LUST program include: (a) home and farm tanks with 1,100 gallons or less capacity; and (b) heating oil tanks where the oil is consumed on the premises; and (c) all tanks with capacity less than 110 gallons. Other spills are covered by the state's hazardous spills program (discussed under a later section on state-funded cleanup programs). The state hazardous substances spills law (s. 292.11 of the statutes) and the NR 700 administrative rule series are used to implement federal LUST requirements and respond to both federally-regulated and non-federally regulated leaking tanks.

The LUST program complements the federal underground storage tank program (UST) which is intended to prevent contamination of groundwater and vapor migration caused by leaks from underground storage tanks. These regulations require certain tank owners to provide evidence that they can finance cleanups necessitated by any possible future leaks and to upgrade or abandon tanks on an age-based schedule.

Commerce has responsibility for regulation and enforcement of storage tank standards and financial responsibility requirements in the UST program. The UST regulations are established in administrative rule Chapter COMM 10 to regulate flammable and combustible liquids. However, state

law also requires Commerce to regulate tanks not included under federal regulations (aboveground tanks, farm and residential motor fuel underground storage tanks with less than 1,100 gallons and heating oil underground storage tank systems). Commerce regulates approximately 176,200 underground petroleum storage tank systems under federal and state requirements and 24,300 aboveground tank systems under state requirements.

Commerce also administers the petroleum environmental cleanup fund award program (PECFA). This program reimburses eligible owners and operators of petroleum storage tanks for certain costs incurred due to tank leakage. In general, PECFA reimburses certain cleanup costs for all federally-regulated tanks plus aboveground tanks, some farm tanks with 1,100 gallons or less and home, public school district and technical college heating oil tanks. A separate informational paper describes the PECFA program.

LUST Sites

Approximately 78,800 of 176,200 underground tanks regulated by Commerce are regulated under the LUST program. Cleanup standards for LUST sites are established by DNR under the state hazardous substances spills law and under the administrative rule NR 700 series and Chapter NR 140. All LUST sites are regulated under the state hazardous substances spills law.

DNR administers the cleanup at high-risk petroleum LUST sites and sites with non-petroleum contamination. Commerce administers the cleanup at medium- and low-risk petroleum sites. Most LUST sites will be eligible for PECFA reimbursement for cleanup of petroleum contamination. As of June 30, 2002, there were 15,428 petroleum-contaminated sites in the reconciled databases of both DNR and Commerce. Of the total, 4,126 were open sites, of which DNR administered 2,637 and Commerce administered 1,489. Cleanup at 11,302 petroleum-contaminated sites had been completed, of which DNR administered 6,593 sites and Commerce administered 4,709. In addition to the reconciled sites, 4,531 petroleum-contaminated sites (including 3,558 closed sites) in the DNR database have not been matched to a site in the Commerce database. There are 66 sites on the Commerce database that have not been matched with sites on the DNR database. The Commerce database indicates that all 66 sites are under the jurisdiction of DNR.

Funding

Federal funding provides 90% of the cost of implementing the LUST program and the state must pay the remaining 10%. Federal funding comes from a 0.1 cent per gallon excise tax on motor fuels. Table 2 indicates that Wisconsin has received $29.5 million in federal funding since the inception of the program, which includes $26.4 million granted to DNR and $3.1 million granted to Commerce as of federal fiscal year 2003.

Table 2: Federal LUST Funding for Wisconsin

Federal Fiscal Year	Federal Funding DNR	Federal Funding Commerce
1988 - 1997	$19,408,700	N.A.
1998	1,368,000	N.A.
1999	1,661,000	N.A.
2000 *	1,342,600	$763,400
2001	862,600	797,200
2002	862,600	797,200
2003 est.	862,600	797,200
TOTAL	$26,368,100	$3,155,000

* LUST funding is split between DNR and Commerce beginning in 2000. Beginning in 2001, DNR and Commerce received separate LUST grants from EPA.

In 2002-03, federal funding is used to support 12.75 DNR program staff and 12 Department of Commerce staff. Federally-funded staff have decreased from a high of more than 50 positions in the early 1990s. In past years, federal funding had also been used to finance 30 emergency actions at high priority sites and 19 long-term investigations and cleanups, but is no longer available for these two purposes because of federal funding reductions in the LUST program. The majority of LUST cleanups are funded by responsible parties and are reimbursed by the state PECFA program.

Federal Brownfields Program

The federal Brownfields Revitalization and Environmental Restoration Act of 2001 was signed into law by the President on January 11, 2002. The main provisions of the Act include: (a) codify and expand EPA's current brownfields program by authorizing funding for assessment and cleanup of brownfields properties; (b) exempt certain contiguous property owners and prospective purchasers from Superfund liability; and (c) authorize funding for state response programs and limited Superfund liability for certain properties cleaned up under state programs.

The federal brownfields legislation authorizes up to $200 million per year nationwide for brownfields assessment and cleanup, of which up to $50 million per year (or 25% of the appropriated amount) would be set aside for brownfields contamination. EPA accepted initial proposals by December 16, 2002, from states, local governments, redevelopment agencies and local governments for: (a) brownfields assessment grants of up to $200,000 each over two years to inventory, assess and plan at brownfields sites; (b) brownfields revolving loan fund grants of up to $1,000,000 each over five years to provide funding for a grant recipient to capitalize a revolving loan fund and to provide subgrants to carry out cleanup activities at brownfields sites owned by the subgrant recipient; and (c) brownfields cleanup grants of up to $200,000 each over two years to carry out cleanup activities at brownfields sites owned by the grant recipient. EPA will select grant recipients in the spring of 2003.

Hazardous Waste Cleanup Program

The federal Resource Conservation and Recovery Act (RCRA) regulates facilities which transport, store, treat, dispose of, or generate hazardous waste. These facilities are typically businesses that use hazardous substances as part of their manufacturing process or other activities, and generate quantities of hazardous wastes as a result. RCRA is intended to: (a) prevent hazardous waste problems; and (b) require facilities and generators to clean up contamination resulting from intentional or accidental release of hazardous waste at their sites.

DNR incorporated RCRA provisions into Wisconsin's hazardous waste regulations and was authorized by EPA in 1992 to take the lead in administering most aspects of the RCRA corrective action program. DNR has implemented the RCRA corrective action program consistent with EPA rules and the NR 700 rule series.

There are approximately 150 facilities in Wisconsin that are subject to RCRA corrective action provisions, including 26 that are formally in the process of taking corrective action. Many of the 26 have significant soil and groundwater contamination. Project management for most sites is with DNR, and the remaining cases are gradually being transferred from EPA to DNR. When a cleanup is required, DNR works with responsible parties, generally through some enforcement mechanism, to cleanup contamination. If the responsible party

can not, or will not, complete the required cleanup, the case may be transferred to DNR's state-funded response program. Most of the remaining 124 facilities are being addressed under the NR 700 rule series, if investigation or investigation and cleanup are necessary.

DNR also administers cleanup of hazardous waste sites that are not covered by the RCRA corrective action provisions. These sites are typically sites that had releases of hazardous waste that were discovered as part of a hazardous waste compliance evaluation inspection by DNR staff. While DNR does not track the number of this type of site, contamination at over 100 sites has been or is being addressed through the program.

CHAPTER 2

STATE-FUNDED CLEANUP PROGRAMS ADMINISTERED BY DNR

The Legislature has enacted several state initiatives that complement the federal programs and provide additional remedies and state funds to clean up contamination. The state-funded programs provide both emergency response and long-term environmental repair at contaminated sites. All programs require that cleanups be conducted in accordance with state environmental cleanup requirements set by statute and administrative rule. DNR holds primary responsibility for administering contaminated land cleanup programs. These programs are administered by DNR's remediation and redevelopment program and are discussed in the following sections.

Remediation and Redevelopment Organizational Structure

The DNR responsibilities for cleanup of contaminated land are accomplished through the Bureau for Remediation and Redevelopment in the Air and Waste Division, plus staff in the five DNR regions. Regional staff report to a Remediation and Redevelopment Team Supervisor in each region, who reports to an Air and Waste Media Leader in each region. The program is responsible for cleanup of contaminated sediment sites and closed wastewater facilities as well as for the DNR-administered cleanup activities described in the following sections.

DNR Remediation and Redevelopment central office staff are assigned to one of four sections: (a) the Fiscal and Program Evaluation Section oversees the fiscal management of state and federal funding sources; (b) the Policy and Information Technology Section develops policy, rules and guidance and coordinates information technology initiatives; (c) the Technical Resources Section provides technical expertise to support program implementation; and (d) the Brownfields Section implements the environmental and economic initiatives to cleanup and reuse contaminated property and coordinates brownfields programs with other agencies.

DNR regional staff are assigned to geographic boundaries and provide assistance for all contamination incidents within that area, including LUST sites, spills, emergency responses, abandoned containers, Superfund sites, abandoned landfills, brownfields sites, state-funded cleanup or emergency response contracts and hazardous waste corrective actions. Regional staff perform oversight of site investigations, technical assistance, project management and plan review.

The remediation and redevelopment program utilizes eight statewide standing teams to promote integration, assure program continuity, involve DNR staff throughout the state, involve customers and support the increased decentralization to regional operations. The standing teams include: (a) hazardous substances spills; (b) land recycling; (c) standards and streamlining; (d) state-funded response; (e) NR 700 implementation; (f) monitoring; (g) petroleum; and (h) information technology and oversight. The program also utilizes several ad hoc teams to address specific issues.

Environmental Cleanup Requirements

Section 292.11 of the statutes requires that persons who possess or control a hazardous substance which is discharged or who cause the discharge of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from the discharge to the air, lands or waters of the state. DNR is responsible for establishing environmental cleanup standards for groundwater and soil. DNR promulgated the NR 700 administrative rule series to cover responses to discharges of hazardous substances at contaminated sites. NR 700 allows responsible parties to choose an appropriate cleanup method for their properties. DNR provides rules and technical guidance on a variety of methods.

The NR 700 administrative rule series went into effect in 1994 and 1995, with subsequent revisions, as a comprehensive framework to govern environmental cleanups conducted by DNR, persons who caused or possess environmental contamination, or other parties conducting a cleanup. The rules govern cleanups conducted under the spills, environmental repair and abandoned containers laws administered by DNR. The rules also govern cleanups under the drycleaner environmental response program administered by DNR, the PECFA program and brownfields grant program administered by Commerce and the agrichemical management program administered by DATCP. The NR 700 rules address specific steps in the cleanup process, including hazardous substance discharge notification, site investigation, remedial action selection, design, construction and operation and case closure. The rules also contain criteria DNR will use to prioritize sites, especially sites that need state funds for cleanup, and criteria to be used when DNR cost-shares with the federal government at Superfund sites.

DNR expects responsible parties and environmental consultants to follow the provisions of the administrative rule NR 700 series without detailed review and approval from DNR. DNR provides a number of technical guidance documents and training to consultants and responsible parties. DNR performs detailed review of the work at a site when a request for case closeout is submitted to DNR.

Groundwater

Contaminated groundwater can affect human health by adversely impacting drinking water supplies, surface water and the migration of explosive or toxic vapors into basements. Cleanup standards for groundwater contamination at contaminated sites are established under Chapter 160 of the statutes and Chapter NR 140 of the administrative code. The statutes require DNR to establish enforcement standards for substances of public health concern and public welfare concern. The enforcement standard is a numerical value for the concentration of a contaminant in groundwater. It is based on federally-determined contaminant limits for specific compounds, including consideration of health risk and other factors. If no federal contaminant limit has been established for a specific compound the state calculates an enforcement standard. Most petroleum contamination occurs from compounds that have federally-established limits.

Chapter 160 requires DNR to establish, by administrative rule, a preventive action limit (PAL) for each substance for which an enforcement standard is established. The PAL is a contamination limit that is more stringent than the groundwater enforcement standard and is intended as a warning level to allow action to be taken prior to violation of the enforcement standard. Each state agency that regulates activities that may affect the groundwater is required to promulgate rules that establish the range of responses that the agency may take or require the

party responsible for the contamination to take if the PAL is exceeded.

The DNR administrative rule chapter NR 140 and the NR 700 series include a groundwater cleanup goal of the PAL. DNR allows cleanups to achieve a standard less stringent than the PAL if achieving the PAL is determined not to be technically or economically feasible. DNR does this by granting an exemption to NR 140 for contamination above the PAL but below the enforcement standard.

In addition, DNR administrative rule chapters NR 140 and NR 726 allow flexible closure of contaminated sites. Flexible closure means that cleanup activities can be stopped and the site closed when groundwater contamination levels exceed enforcement standards if the following conditions are met: (a) the source of contamination has been adequately cleaned up; (b) groundwater contamination exceeding NR 140 PALs will not migrate across the property line on to any property for which a PAL exemption has been granted, or which has been included on the GIS registry for an enforcement standard exceedence and for which a notification letter has been provided by DNR to the property owner regarding residual contamination, or has a recorded groundwater use restriction on the deed; (c) natural processes will break down the contamination in a reasonable amount of time to meet state groundwater standards; (d) there is no threat to human health and the environment as a result of selecting natural attenuation as the remedial option; and (e) except for NR 140, all applicable public health and environmental laws have been complied with. Natural attenuation means allowing naturally-occurring physical, chemical or biological processes to degrade contamination over a period of time. DNR has published technical guidance regarding use of natural attenuation for cleanup of petroleum contamination in groundwater.

DNR promulgated an administrative rule, effective November 1, 2001, that created a geographic information system (GIS) registry that includes information about contaminated sites that have been closed with a groundwater enforcement standard exceedence. The rule requires that sites with residual groundwater contamination in excess of the NR140 enforcement standard be placed on a GIS registry, instead of recording a groundwater use restriction on each property, as was the previous requirement for flexible closure. The site information is available on the DNR Internet web site. DNR also promulgated a rule, effective August 1, 2002, that requires inclusion on the GIS registry of sites approved for closure with residual soil contamination.

Soil

Contaminated soil can affect human health if a person has direct contact with contaminated soil or if the contamination degrades groundwater or air quality. Soil remediation standards are contained in Chapter NR 720, which includes numerical values for a limited number of specific compounds that represent concentrations of contaminants that can remain in soil at a site and not cause groundwater to become contaminated above groundwater quality standards in NR 140. NR 720 also includes numerical values for a limited number of compounds that represent the amount of contaminants that can remain at a site and not cause a risk to human health through eating or breathing contaminated soil particles. NR 720 also allows consultants to develop site specific soil cleanup standards, which are based on conditions at the site and can allow most or all of the contaminated soil to remain in place at certain sites. DNR administrative rules also include standards for the one-time landspreading of petroleum contaminated soils at certain suitable locations, with natural degradation of the contaminants by soil microorganisms.

Hazardous Substance Spills Program

Under state law, DNR must be notified immediately of any discharge of hazardous substances (s. 292.11 of the statutes, known as the spills statute). "Discharge" includes spilling, leaking, pumping, pouring, emitting, emptying and dumping. The first report of a discharge is typically made to a DNR regional office, the local DNR warden, or a 24-hour telephone hotline staffed by the state Division of Emergency Government. Leaking underground storage tanks are included in the definition of "spills," but are discussed under the section on the LUST program.

Administrative rule NR 706 establishes notification requirements for reporting a non-LUST discharge of hazardous substances. It also establishes exemptions for discharges of certain substances if the discharge does not adversely impact or threaten to impact human health, safety or the environment, if the substances are immediately cleaned up or evaporate before they can be cleaned up and are below specified quantities. The rule includes petroleum compounds, agrichemicals and substances for which there are federally-established reportable quantities.

Responsible Party

The responsible party is required to take necessary action to restore the air, land or water to the condition it was in before the release occurred to the extent practicable, in compliance with the hazardous substances spills law. Responsible parties take the appropriate action in response to a discharge in over 90% of all reported spills. DNR can take action if the responsible party is not known or does not take appropriate action. The NR 700 rule series establishes which actions are necessary to respond to the discharge.

If the responsible party is identified, the party is required to reimburse DNR for any expenses the Department incurs in the response. Reimbursements are credited to the environmental management account of the environmental fund. When responding under this program, DNR has the authority to enter any property with permission of the owner or a special inspection warrant if necessary to prevent increased damage to the air, land or water. DNR employees or contractors may enter private property without prior permission if the delay involved in obtaining permission will result in an imminent risk to public health or safety or the environment. DNR may require, through an administrative order, that preventive measures, such as the installation or testing of equipment or a designated way of performing an operation, be taken by anyone possessing or controlling a hazardous substance if the Department finds that existing control measures are inadequate.

DNR Response Options

DNR makes two types of responses at spills sites. First, DNR provides oversight support for cleanups by responsible parties, which can include evaluating the effectiveness of the response effort by a responsible party and offering technical assistance to the responsible party or their contractor. Second, if there is no responsible party or other local or federal governmental resources available to manage the cleanup, DNR uses the environmental fund to pay a zone contractor to provide emergency response services throughout the state or, in non-emergency responses, to procure the cleanup of a spill. On significant spills, DNR may request EPA assistance under the Superfund emergency removal program.

Number and Type of Reported Spills

Approximately 600 to 900 spills are reported to DNR annually, including 778 spills reported in 1999, 907 reported in 2000 and 604 in 2001. Prior to enactment of reporting requirement revisions to

NR 706 in February, 1997, the number of spills reported averaged approximately 1,200 annually. Since the NR 706 revisions went into effect, the number of spills reported has decreased slightly because certain small spills no longer have to be reported.

DNR estimates that approximately 30% of the hazardous substances spilled are petroleum products, 44% are substances such as fertilizer, paint, ammonia and solvents, and the remaining 26% are unclassified (data is not available). The largest sources of spills are industrial facilities, transportation accidents such as releases of diesel fuel or spills from loads of semi trucks, spills on private property and spills on public property.

Abandoned Containers Program

DNR may contain, remove or dispose of abandoned containers and their contents or take any other necessary related emergency action. An "abandoned container" is defined as any container that holds a hazardous substance and is not being monitored and maintained (section 292.41). The definition does not apply to buried containers or containers located in a waste disposal facility. DNR has the authority to enter any property with either permission of the owner or a special inspection warrant, if necessary to prevent increased damage to the air, land or water.

In most cases, DNR becomes aware of abandoned containers from public tips that containers of unknown material have been abandoned without the consent of the property owner, on public property, or into or adjacent to surface water. Except in emergency situations, requests to DNR to deal with abandoned containers are not approved if a responsible party is known and has the financial resources to respond to the problem. If the responsible parties are identified after a state-funded response has occurred, the Department may recover its costs.

DNR responded to 36 sites in 2001 through 2002 that had abandoned containers holding hazardous substances, with a total DNR response cost of approximately $52,600 from the environmental fund. Most of the abandoned containers are found in the southeast region. In addition to these responses, the Department of Justice provided DNR with information about approximately 45 illegal drug labs in each of 2001 and 2002. DNR assessed the sites and found that the environmental impacts from most of the labs were minimal.

State-Funded Response Actions

DNR administers a program of state-funded response actions that can be considered the state equivalent to the Superfund program. The program has authority for all types of hazardous substances sites, including approved and unapproved solid and hazardous waste disposal facilities, and waste sites, under s. 292.31 of the statutes, the environmental repair statute. Typical sites cleaned up under s. 292.31 are sites which were designed as a component of a specific waste management process which became contaminated (for example, old landfills), industrial sites, and contaminated municipal water supplies. Most state-funded response actions are accomplished under s. 292.11 of the statutes, the hazardous substance spill law. Typical sites cleaned up under s. 292.11 are pipeline spills, train spills and spills of hazardous substances at industrial sites.

Responsible Party

DNR tries to determine what parties are responsible for contamination problems at hazardous substance sites. Under the

environmental repair statute, a person is a responsible party if that person: (a) knew or should have known at the time disposal occurred that the disposal would cause or contribute to a substantial danger to public health or the environment; (b) violated any applicable law, plan approval or administrative order and the violation caused or contributed to the condition at the site; or (c) took actions which caused or contributed to the condition at the site and would result in liability under common law in effect at the time the disposal occurred.

DNR requires the responsible party to fund the costs of the site investigation and cleanup if the responsible party is able to do so. In the majority of contamination cases, the responsible party works cooperatively with DNR, and completes and pays for the cleanup.

Under the spills law and environmental repair law, a person who contributes to contamination may be held liable for the entire cost of cleanup. However, if a local government has initiated the local governmental unit negotiation process under s. 292.35 of the statutes (described in a later section), responsible parties are liable for costs in proportion to the percentage of contamination they caused. For example, if a responsible party caused 50% of the contamination and no other responsible parties are identified who can pay, it is liable for 50% of the cleanup costs.

The liability provisions of Superfund, s. 292.11 (spills statute) and s. 292.31 (the environmental repair statute) would require the responsible party to pay all of the cleanup costs (even if it caused 50% of the contamination) if no other responsible parties are identified, and if the responsible party is unable to differentiate between the contamination caused by the responsible party and the contamination caused by other parties. This differs from the local governmental unit negotiation process under s. 292.35 of the statutes, which would require the responsible party to pay only 50% of the cleanup costs if it caused 50% of the contamination if an agreement has been reached or a recommended agreement has been issued. DNR state-funded response actions use the stricter liability provisions of the spills statute and the environmental repair statute.

If DNR cannot identify the responsible party or if the responsible party cannot or will not pay cleanup costs (for example, if the company is insolvent), the state pays for cleanup. If DNR identifies responsible parties at a later date, it can seek recovery of its cleanup costs from the responsible parties.

Inventory of Problem Sites

Under the environmental repair statute, DNR is required to compile and maintain an inventory of problem sites, with each site ranked on the basis of hazard and necessity for remedial action. (The spills statute does not require DNR to maintain a similar inventory of spill sites.) The Department may investigate, analyze and monitor a site or facility to determine if pollution problems exist and the extent of those problems. Generally, sites which do not score high enough on EPA's ranking system to become a Superfund site, but are considered a potential risk to human health, safety or the environment, are likely state-funded response sites. Because of delays in the Superfund process, the Department also includes some potential Superfund sites for state-funded response action when it determines that postponing action at these sites could significantly increase the magnitude of an existing problem.

DNR has developed several publications that provide information about sites with contamination or sites with a history of activity related to solid waste disposal or contamination. The DNR publications are available in hard copy format and electronically on the Department's internet web site. In addition, the Department developed and maintains a comprehensive

database called BRRTS (Bureau for Remediation and Redevelopment Tracking System) that allows people to search for information about sites that may have contamination. This is available to the public on the Department's Internet web site as "BRRTS on the Web."

1999 Wisconsin Act 88 prohibits DNR from providing lists of 10 or more individuals that include personal information such as name and address about individuals who do not want to be identified. DNR has implemented the provisions by excluding personal identifiers about individuals (name, home address and telephone number) from Internet web site information about contaminated sites if not in conflict with DNR duties under other laws. Other information about individual sites is included on the web site, such as the type of contamination, cleanup actions taken at the site and whether the cleanup has been completed.

Registry of Waste Disposal Sites in Wisconsin. DNR maintains a registry of waste disposal sites. This is a comprehensive listing of all known sites where solid or hazardous substances have been, or may have been, deposited. The registry does not attempt to determine if a definite hazard exists at a site. DNR last updated the registry in June, 1999, with a list of 4,298 active, closed and abandoned waste disposal sites in Wisconsin, and provides the information on the Department's Internet web site.

Inventory of Sites Causing Environmental Pollution. DNR is required to publish an updated inventory of sites that may cause or threaten to cause environmental pollution every four years. In October, 1995, DNR last published an inventory of sites in the Wisconsin Remedial Response Site Evaluation Report.

The 1995 report contains three lists of sites that the Department believes may cause health or environmental problems: (a) 144 sites or facilities that may cause or threaten to cause environmental pollution under the environmental repair statute (s.292.31), including 39 sites on the NPL; (b) 554 spill sites as of October, 1995, with a "high potential" of danger which are administered by DNR under the state spill statute (s. 292.11); and (c) LUST sites, the number of which has been updated to include 15,428 potential PECFA sites administered by DNR and Commerce as of June 30, 2002.

*Hazard Ranking List. S*tate law requires DNR to rank all sites on the initial inventory. An initial hazard ranking list was published in March, 1988, which listed 60 sites that were considered a substantial danger to human health or the environment at that time. DNR last published an updated hazard ranking list in July, 1994, with 118 sites that were determined to present a substantial danger and 25 sites that were determined to not present a substantial danger.

To reduce confusion caused by the multiple lists currently required, DNR's remediation and redevelopment program maintains the BRRTS database, which supersedes the above-mentioned publications. All known sites are listed together on the BRRTS database. The above lists are subsets of the entire database.

In 2002, DNR began a pilot project for an alternative ranking system that would be simpler to use than existing ranking methods. Under the pilot program, environmental and socioeconomic criteria are being used to rank sites as high, medium or low priority. It is being used on a pilot basis to review sites funded under state-funded response and the dry cleaner environmental response program. DNR will evaluate the pilot program and determine whether to make administrative rule changes related to categorizing of sites.

Investigation and Remedial Action

If a site or facility presents a substantial danger to public health, welfare or the environment, DNR

is authorized to take specific remedial action. This authority includes: (a) taking direct action to remedy the pollution; (b) repairing or restoring the environment; (c) establishing a long-term monitoring and maintenance program for the facility; (d) providing temporary or permanent replacement of private water supplies damaged by the facility; (e) assessing the potential health effects of the occurrence; or (f) any other action necessary to protect public health, safety or the environment.

The process of investigation and cleanup is similar, but somewhat less complex, than it is for Superfund sites. A preliminary site investigation is done by DNR when the site is scored for the hazard ranking list. If the site is considered an imminent hazard based on this investigation, emergency action may be undertaken. If the site does not present an imminent danger, but is determined to be a significant environmental hazard, the site is placed on the list for long-term cleanup.

When DNR is ready to proceed with the cleanup process at the site, it contracts for a complete investigation. DNR then contracts to have a remedial options plan developed which details the possible cleanup alternatives. After the appropriate option is selected (including the public hearing process), the remediation is initiated. Costs associated with these activities are funded from the environmental management account of the state segregated environmental fund and from general obligation bonding.

Since 1988, the hazard ranking list has been used to select additional sites for investigation and cleanup. In 1987 Wisconsin Act 27, the Legislature required that DNR start remedial action on at least two sites per year from 1989 through 2000 and commence remedial action at all sites by 2000. DNR identified many contaminated sites in the years following enactment of 1987 Act 27. As of November, 2002, DNR had initiated state-funded response actions at 84 sites (an average of six sites per year), had begun site investigations at 41 sites, and anticipates starting remedial actions at six sites by the spring of 2003. State-funded investigations have been initiated at over 150 other contaminated sites. There are several hundred sites where remedial action currently underway is being financed by responsible parties. DNR is overseeing a portion of that work, in part based on the overall priority of the case.

Appendix II lists the state sites that had been, or were being, investigated or cleaned up under the state-funded response action program from its inception in 1983 through June, 2002. The list does not contain the sites where responsible parties are financing cleanup and DNR is overseeing the work. (Some of these sites are also listed in the Superfund national priority list.) DNR anticipates that during the 2001-03 biennium it will expend approximately $10.8 million from the environmental fund for cleanup activities at these sites.

State-Funded Response Appropriation

DNR administers a state-funded response appropriation through the environmental management account of the environmental fund. The appropriation has expenditure authority of $3,321,300 SEG in 2002-03 (plus encumbrances of $1,707,300 and an unencumbered carry-in balance of $495,500). Expenditures from the appropriation averaged $3.6 million annually for the five years from 1997-98 through 2001-02. As part of implementation of 2001 Act 16 and Act 109 across the board agency appropriation reductions and lapses, $371,600 was transferred from the continuing balance of the appropriation to the general fund in 2001-02, and $437,200 is transferred in 2002-03.

The appropriation is used for DNR expenditures related to: (a) DNR-lead cleanups of contaminated sites where the responsible party is unknown or can not or will not clean up the site (see Appendix II for a list of sites with cleanup

funded from the appropriation); (b) the state share at certain Superfund site cleanups; (c) the state match to federal LUST expenditures; (d) emergency spill response and cleanups; (e) response and cleanup of abandoned containers of hazardous substances where the responsible party can not be identified; (f) $3 per capita payments to certain municipalities for groundwater monitoring and equipment purchases; (g) provision of temporary emergency water supplies; (h) DNR-lead remedial actions at abandoned privately-owned landfills; and (i) DNR-lead cleanups resulting from responsible party payment of court settlements.

Table 3: Municipal Monitoring Cost Reimbursement - December 1, 2002

Jurisdiction	Reimbursement
Baraboo	$333,699
Black River Falls	129,053
Boscobel	31,564
Grafton, Town of	100,000
Green County	137,062
Hartford	89,641
New Richmond	73,704
Pittsville	22,567
Rhinelander	534,221
Shawano	31,009
Sheboygan, Town of	17,528
West Bend	268,133
Total	$1,768,181

Municipal Monitoring Cost Reimbursements

Under certain conditions, DNR is directed to reimburse costs incurred by a municipality for groundwater monitoring. The reimbursement is for costs in excess of $3 per capita annually for monitoring mandated by the Department at municipally owned or operated "nonapproved" solid waste sites. (An "approved" facility is defined by statute as one that had a plan of operation approved by DNR after May 21, 1978, or had its plan approved between May 21, 1975, and May 21, 1978, and had its plan subsequently reviewed and reapproved by DNR. All other facilities are classified "nonapproved.")

Reimbursements are paid out of the environmental management account of the environmental fund before any other claims against the fund are paid. Table 3 indicates that from 1987 through December 1, 2002, $1.8 million in payments were made to 12 local governments. No payments were made between December, 1999, and August, 2002.

Provision of Temporary Emergency and Permanent Water Replacement Supplies

DNR provides temporary emergency water supplies to persons with water supplies that have been adversely affected by contamination from a site or facility subject to cleanup requirements under the hazardous substance spills statute or environmental repair statute. Provisions are contained in administrative rule NR 738. Temporary emergency water supplies include potable water obtained in bottles, by tank truck or by other similar means, or a temporary connection to an existing water supply, supplied at a capacity sufficient to satisfy water use functions impaired by the contaminated water supply.

The environmental fund pays for temporary emergency water supplies if the following criteria are met: (a) the source of potable water is from a contaminated well or contaminated water supply; (b) the contamination is known or is suspected by DNR to be from environmental pollution or a hazardous substance discharge subject to the spills statute (s. 292.11) or the environmental repair statute (s. 292.31); (c) water sampling is conducted in accordance with specific requirements; and (d) DNR or the Division of Health in the Department of Health and Family Services has issued a drinking water advisory notice for the water supply. DNR has paid approximately $158,000 as of June 30, 2002, for temporary emergency water supplies.

The environmental fund also pays for permanent replacement water supplies instead of temporary emergency water supplies under certain circumstances. DNR may grant a variance to the rule in order to allow payment of a portion of the costs of a permanent replacement water supply if: (a) the owner of the contaminated well demonstrates financial hardship; and (b) DNR determines that the cost of the permanent replacement water supply would create an unreasonable financial hardship for the well owner. DNR has paid approximately $174,200 from 1984 through June 30, 2002, for 91 permanent replacement water supplies where there was a demonstrated financial hardship for the well owner.

General Obligation Bonds

DNR has been authorized $41 million in general obligation bonding through the 2001-03 biennium to fund the state's cost-share for cleanup of federal Superfund and LUST sites and state-funded cleanups under the environmental repair statute (s. 292.31) and hazardous substances spills statute (s. 292.11). Bonding authority can be used for public purpose projects such as cleanup of contaminated groundwater, soils and sediments, and activities such as investigation, remedial design and cleanup of a specific site when the responsible party is unknown, unable or unwilling to fund the cleanup. Bonding authority cannot be used for general preliminary investigations or cleanups funded by responsible parties.

DNR has expended or encumbered $33.8 million of the available $41 million in bonding authority as of December 1, 2002. DNR has committed or is expecting to commit the remaining bonding authority for work at sites where investigative work has been completed and remedial design work is completed or underway, and implementation of the selected remedy may occur within the next year.

In 2001 Act 16, payment of the debt service repayment for the general obligation bonding authority was converted from general purpose revenue (GPR) to segregated (SEG) revenue from the environmental management account of the environmental fund. In 2001-02, $1,722,200 SEG was expended on general obligation bond debt service for remedial action. In 2002-03, up to $2,700,000 SEG is available for debt service. If actual costs exceed the SEG appropriation, GPR would pay the remainder. However, no GPR is expected to be necessary for general obligation bond debt service in 2002-03.

Liability Exemptions and Assurances

1993 Wisconsin Act 453, 1997 Wisconsin Acts 27 and 237, 1999 Wisconsin Act 9 and 2001 Wisconsin Act 16 established and modified a number of limitations on liability for cleanup of contamination under the hazardous substances spills law in order to encourage persons to voluntarily cleanup contamination and restore properties to productive use. These provisions are generally intended to encourage the cleanup and redevelopment of brownfields. Brownfields are abandoned, idle or underused industrial or commercial properties, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination.

DNR is authorized to charge fees to offset its costs for providing various types of technical assistance and assurance letters related to the environmental liability of owning a property. For example, persons who want to obtain a written assurance letter that DNR approves an exemption from future liability for cleanup of a property under certain circumstances, must pay a fee to DNR for the cost of providing the review and assurance.

Voluntary Party Limited Liability Provisions

Parties who conduct voluntary cleanups of contaminated property are able to limit their environmental liability if they meet certain conditions. Voluntary parties may obtain an exemption from further remedial action on the property and the Department of Justice is prohibited from commencing an action under the federal Superfund law against the voluntary party if the voluntary party takes certain actions to investigate and clean up the property.

Effective October 29, 1999, (the effective date of 1999 Act 9), a "voluntary party" is defined as any person who submits an application to obtain an exemption from liability and who pays the required fees to offset DNR costs for providing the voluntary party exemption certification. Between July 1, 1998, and October 28, 1999, a "voluntary party" was defined as any person who did not intentionally or recklessly cause the release of a hazardous substance on the property. Between 1994 and June 30, 1998, the voluntary party liability exemption was limited to certain purchasers of contaminated property. Certain hazardous waste treatment, storage or disposal facilities are not allowed to obtain a voluntary party liability exemption.

Exemption Process

A voluntary party is exempt from certain hazardous substance discharge and solid and hazardous waste statutory requirements if: (a) an environmental investigation of the property is conducted by the voluntary party and approved by DNR; (b) the property is cleaned up by restoring the environment and minimizing the harmful effects from a release of a hazardous substance in accordance with DNR rules and any contract entered into under those rules; (c) the voluntary party obtains certification from DNR that the property has been satisfactorily restored and that the harmful effects from a release of a hazardous substance have been minimized; (d) if the voluntary party owns or controls the property, the voluntary party maintains and monitors the property as required by DNR; (e) the voluntary party does not engage in activities that are inconsistent with the maintenance of the property; and (f) the voluntary party has not obtained the DNR certification by fraudulent methods.

The voluntary party's exemption from liability continues notwithstanding the occurrence of any of the following: (a) future statutes, rules or regulations impose greater responsibilities on property owners; (b) the voluntary party's remediation is not completely successful; (c) the contamination from a hazardous substance that is the subject of remediation is discovered to be more extensive than anticipated by the voluntary party and DNR; or (d) if the voluntary party does not own or control the property, the person who owns or controls the property fails to maintain and monitor the property as required by DNR. The exemption applies to the voluntary party's successor if the successor maintains the property and, if the voluntary party obtained the DNR certification by fraudulent means, the successor was unaware of the fraud.

A voluntary party is exempt from the requirements of certain hazardous and solid waste statutes for property affected by discharges that originated off-site if all of the following occur at any time before or after the date of acquisition: (a) the property is cleaned up by restoring the environment to the extent practicable and minimizing the harmful effects from the discharges in accordance with DNR rules and any contract entered into under those rules, except for the hazardous substance originating off-site for which the voluntary party is exempt under off-site liability provisions; (b) the voluntary party obtains a certificate of completion from DNR that the environment has been satisfactorily restored to the extent practicable and the harmful effects from a release have been minimized, except for the

discharge originating off-site for which the voluntary party is exempt from liability under the off-site liability provisions; (c) the voluntary party obtains a written determination concerning liability from DNR under current off-site liability provisions; and (d) the voluntary party continues to meet provisions under the off-site discharges liability exemption (discussed in a later section).

A voluntary party may receive interim liability protection from the same solid and hazardous waste statutes as under the voluntary party liability exemption with respect to a discharge of a hazardous substance on or originating from the property if the discharge occurred before the environmental investigation is completed, and if all of the following apply: (a) an environmental investigation of any discharges of hazardous substances originating from the property is conducted and approved by DNR; (b) if required by DNR, the voluntary party enters into an agreement with DNR under which the voluntary party agrees to conduct a cleanup approved by DNR; (c) the voluntary party obtains insurance to cover the cost of a cleanup of hazardous substance discharges that occurred before DNR approved the investigation and that are discovered while conducting the cleanup, the insurance complies with DNR rules and the insurance names the voluntary party and the state as insureds; (d) if DNR requires the voluntary party to enter into an agreement with the Department under the interim liability provision, the voluntary party conducts the agreed upon cleanup activities approved by DNR; (e) a hazardous substance discharge that occurred before the investigation is completed is discovered after the investigation is approved and before the cleanup is completed; and (f) the voluntary party has not obtained approval of the investigation or the agreement by fraudulent methods. DNR has not promulgated rules regarding the insurance requirement because in 2000 the advisory Brownfields Study Group recommended that the interim liability exemption be deleted from the statutes. DNR has not received any indication of interest from voluntary parties to use this exemption.

A voluntary party is also exempt from liability under the hazardous substances and solid waste laws if there exists a hazardous substance in groundwater on a property in a concentration that exceeds a groundwater enforcement standard and DNR determines that natural attenuation will restore groundwater quality in accordance with DNR rules. Natural attenuation would mean the reduction in the mass and concentration in groundwater of a substance, and the products into which the substance breaks down, due to naturally occurring physical, chemical and biological processes, without human intervention.

The exemption from liability in the case of a groundwater enforcement standard exceedence is available if the release of the hazardous substances occurred prior to the date DNR approves the environmental investigation of the property and if all of the following occur at any time before or after the date of acquisition: (a) an environmental investigation of the property is conducted that is approved by DNR; (b) the hazardous substances discharges identified by the investigation are cleaned up by restoring the environment to the extent practicable and minimizing the harmful effects from the discharges in accordance with DNR rules and any contract entered into under those rules, except that the requirement does not apply with respect to the hazardous substance in groundwater that DNR has determined will be brought into compliance with DNR rules through natural attenuation; (c) the voluntary party obtains a certificate of completion from DNR that the property has been satisfactorily restored to the extent practicable and that the harmful effects from the discharges have been minimized, except with respect to the hazardous substance in groundwater that DNR has determined will be brought into compliance with DNR rules through natural attenuation; (d) if required by DNR, the voluntary party obtains insurance to cover the costs of

cleanup of the hazardous substance that DNR has determined will be brought into compliance with DNR rules through natural attenuation, in case natural attenuation fails, and the insurance complies with DNR rules and names the state as the insured; (e) the voluntary party maintains and monitors the property as required by DNR; (f) the voluntary party does not engage in activities that are inconsistent with the maintenance of the property; and (g) the voluntary party has not obtained the DNR certification by fraudulent methods. This provision does not exempt the property from any lien for recovery of cleanup costs incurred by DNR prior to the date that DNR issues the natural attenuation certification.

DNR promulgated rules related to requirements for insurance at sites where voluntary parties are using natural attenuation in cases of groundwater contamination and a liability exemption is sought. The rules are found in Chapter NR 754, which took effect as an emergency rule in March, 2001, and as a permanent rule in July, 2001. DNR has received insurance premiums and fees totaling $41,834 for three sites, and has issued certificates of completion for the three sites.

DNR is authorized to approve a partial cleanup by a voluntary party and issue a certificate of completion that states that not all of the property has been satisfactorily restored or that not all of the harmful effects from a discharge of a hazardous substance have been minimized. Approval of a partial cleanup would exempt a voluntary party, with respect to the portion of the property subject to the partial approval, from certain environmental cleanup requirements. A certificate for partial cleanup can be issued only if: (a) public health, safety or the environment will not be endangered by any hazardous substances remaining on or originating from the property after the partial cleanup; (b) the activities associated with any proposed use or development of the property will not aggravate or contribute to the discharge of a hazardous substance and will not interfere with or increase the costs of cleaning up the property; and (c) the owner of the property agrees to cooperate with DNR to address problems caused by hazardous substances remaining on the property.

The exemption or partial exemption from liability for a voluntary party does not apply to certain hazardous waste treatment, storage or disposal facilities. The exemption or partial exemption does not exempt the property from any lien for recovery of costs filed by DNR prior to the date DNR issues a certificate of exemption or partial exemption.

Participation

As of December 1, 2002, 169 applications have been received for participation in the purchaser or voluntary party liability program. Of this total, 31 properties have received a certificate of completion and received an exemption from DNR from future liability for the site. Six were denied because the applicant did not meet the definition of purchaser (under the old definition of voluntary party), and 20 applications were withdrawn. The remaining 112 properties are in the process of completing the investigation and cleanup needed to receive a certificate of completion.

After applying for the exemption, a voluntary party must conduct an environmental assessment to provide information about the existence of contamination at the site and to determine what actions will be necessary to cleanup the property to comply with state laws. The voluntary party must then complete a thorough environmental investigation of the property and must conduct a cleanup. After completion of the cleanup, the voluntary party must request and receive DNR close out under administrative rule Chapter NR 726. At that time DNR certifies the exemption from future liability.

Persons who want to participate in the voluntary party process may request a number of

types of assurances. Prospective purchasers of property may request a letter from DNR certifying that they are entitled to the voluntary party liability exemptions. The voluntary party may request that DNR approve a partial cleanup and issue a certificate of completion approving an environmental investigation and a portion of the cleanup. DNR issues a certificate of completion for an entire property after it approves the investigation and cleanup of a property.

Local Government and Economic Development Corporation Liability

Local governments and certain economic development corporations are not liable for cleanup under the hazardous substances spills law for discharges of hazardous substances on or originating from property they acquired in certain ways. They are also exempt from the requirement to reimburse DNR for any cleanup expenses incurred by DNR at these sites. Local governmental units include a city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district, metropolitan sewage district, redevelopment authority, public body designated by a municipality, community development authority and housing authority. An economic development corporation would have to be one described in section 501 (c) of the Internal Revenue Code that is exempt from federal taxation under section 501 (a) of the Internal Revenue Code, or an entity wholly owned by such a corporation.

The local government exemption from liability would apply if the local government acquired the property: (a) through delinquency proceedings or as the result of an order by a bankruptcy court; (b) from another local government that is exempt under the local government exemption provision; (c) through condemnation or other eminent domain proceedings; (d) for the purpose of slum clearance or blight elimination; (e) through escheat (where there is no heir to the property); or (f) using funds appropriated under the Warren Knowles-Gaylord Nelson Stewardship or Warren Knowles-Gaylord Nelson Stewardship 2000 program. The economic development corporation exemption would apply if the corporation acquired the property to further the economic development purposes that qualify the corporation as exempt from federal taxation.

A local government or economic development corporation is not eligible for the exemption from liability if the discharge of the hazardous substance was caused by: (a) an action taken by the local government or corporation; (b) a failure of the local government or corporation to take appropriate action to restrict access to the property in order to minimize costs or damages that may result from unauthorized persons entering the property; (c) a failure of the local government or corporation to sample and analyze unidentified substances in containers stored aboveground on the property; or (d) a failure of the local government or corporation to remove and properly dispose of, or to place in a different container and properly store, any hazardous substance stored above ground on the property in a container that is leaking or is likely to leak. In addition, if the local government or corporation intends to use or develop the property, the exemption does not apply if the local government or corporation does not take actions that the DNR determines are necessary to reduce threats to public heath or safety related to the reuse of the property.

Local governments that meet the specified conditions are exempt from environmental liability and do not have to receive approval from DNR. Thus, DNR does not have data about how many sites are eligible for the exemption. DNR estimates that at least 24 local governments have requested that DNR provide a letter of general liability clarification, which is a written determination by DNR on the local government's eligibility for the exemption. In addition, applications for site assessment grants (described in a later section) indicate many other local governments are acquiring contaminated properties for which they might use a local

government liability exemption.

DNR is implementing a pilot program where local governments and economic development corporations that qualify for the liability exemption may be exempted from the chapter NR 600 hazardous waste management requirements. DNR can use enforcement discretion, on a case-by-case basis, at such sites with a history of hazardous waste management activities. At least three sites have been identified where this exemption may apply.

Lender Limited Liability Provisions

A lender that acquires title to, or possession or control of property when it is enforcing a security interest is exempt from environmental liability under the hazardous substances spills law if the lender: (a) does not intentionally or negligently cause a new discharge of a hazardous substance or exacerbate an existing discharge; (b) notifies DNR of any known discharge of a hazardous substance; (c) conducts an environmental assessment at any time up to 90 days after acquiring the property and follows certain procedures related to the assessment; (d) is not engaged in the operation of a business at the property and implements an emergency response action in response to the discharge of a hazardous substance released on or after the date the lender acquires title to, or possession or control of, the property; (e) allows DNR, an authorized representative of DNR or any party that possessed or controlled the hazardous substance or caused the discharge of the hazardous substance and any consultant or contractor of the party to enter the property to respond to the discharge; (f) agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge; and (g) agrees to any other condition that DNR determines is reasonable and necessary to ensure that DNR or other persons can adequately respond to the discharge.

The lender is required to reimburse DNR for the costs of reviewing materials submitted by the lender. As of December 1, 2002, DNR has issued 11 lender assessment review letters.

Liability Exemption for Off-Site Discharges

A person is exempt from liability for remedial action under the spills law with respect to the existence of a hazardous substance in the groundwater or soil, including sediments, on property possessed or controlled by the person if: (a) the discharge of the hazardous substance originated from a source on property that is possessed or controlled by another; (b) the person did not possess or control the hazardous substance on the property on which the discharge originated or cause the original discharge; (c) the person conducts an investigation or submits other information that DNR determines is adequate to determine that (a) and (b) are met; (d) the person agrees to allow DNR and DNR's authorized representatives, any party that possessed or controlled the hazardous substance or caused the discharge of the hazardous substance and any consultant or contractor of such a party to enter the property and take action to respond to the discharge; (e) the person agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge; and (f) the person agrees to other specified conditions that DNR determines are reasonable and necessary to ensure that DNR or other specified persons can adequately respond to the discharge.

In addition, a person is exempt from liability for remedial action under the spills law with respect to the existence of a hazardous substance in the soil, including sediments, on property possessed or controlled by the person if the same conditions are met. Further, the person must agree to take one or more of the following actions at the direction of DNR, if after DNR has made a reasonable attempt to notify the party who caused the discharge of the hazardous substance about the party's

responsibilities under the spills law, DNR determines that the action or actions are necessary to prevent an imminent threat to human health, safety or welfare or to the environment: (a) limit public access to the property; (b) identify, monitor and mitigate fire, explosion and vapor hazards on the property; and (c) visually inspect the property and install appropriate containment barriers.

Property owners who qualify for the off-site exemption do not have to request or receive approval from DNR in order to be exempt. However, DNR is authorized to, upon request, issue a written determination that the person is not required to respond to the discharge or reimburse DNR for the costs of responding to the discharge if DNR determines that the person qualifies for the exemption from liability. DNR may assess and collect fees from a person to offset the costs of issuing determinations to persons who request them. As of December 1, 2002, DNR had issued 117 off-site liability exemption letters.

DNR Technical Assistance

DNR is authorized to provide various types of technical assistance and to assess and collect fees from the requester of services to offset the costs of providing assistance. Examples of types of technical assistance would include, upon request: (a) assisting persons who want to determine who is liable for environmental pollution of properties; (b) assisting in, or providing comments on the planning and implementation of an environmental investigation of a property or the environmental cleanup of a property; (c) determining whether further action is necessary to remedy environmental pollution of a property; and (d) issuing a letter to a person concerning the environmental liability of owning or leasing the property, the type and extent of contamination on the property or the adequacy of an environmental investigation of the site. As of December 1, 2002, DNR had issued 102 general liability clarification letters and 12 letters concerning the environmental liability of leasing a property.

Cancellation of Delinquent Taxes

Wisconsin Counties and the City of Milwaukee are authorized to cancel part or all of delinquent property taxes, interest and penalties on a contaminated property. In order to be eligible, an environmental assessment would have to show that contamination exists on a property and the property owner or potential owner would have to enter into an agreement with DNR to investigate and clean up the property. As of December 1, 2002, DNR has entered into seven cleanup agreements for tax delinquent contaminated sites. The agreement is submitted to the taxing authority, either a County or the City of Milwaukee, and that taxing authority determines whether all or a portion of the delinquent taxes will be canceled.

Local Government Negotiation and Cost Recovery

Local governments (counties, cities, villages or towns) are authorized to negotiate with parties responsible for environmental pollution to share the costs of remedial action at the site of a facility where either: (a) the environmentally contaminated land is owned by the local government; or (b) a local government owns a portion of the site and commits itself to paying more than 50% of the amount equal to the costs of the investigation and remedial action costs less any financial assistance received for the site or facility. The negotiation procedure first applied to landfills beginning January 1, 1996 and to all other sites or facilities beginning May 13, 1994.

Before the local government may begin the negotiation procedure, it must attempt to identify responsible parties, draft a remedial action plan, conduct a public hearing and obtain DNR approval of the plan. A responsible party would include: (a) an owner or operator at the time the property is

taken for tax delinquency or at the time that the disposal or discharge of a hazardous substance at the site or facility occurs; (b) a generator; (c) a transporter; or (d) a person who possesses, controls or causes the discharge or disposal of a hazardous substance.

After DNR approves the remedial action plan, the local government may begin a negotiation process with any identified responsible parties by serving them with an offer to settle regarding the contribution of funds for the investigation and remedial action. The statutes set forth procedures for the negotiation process, including a method by which DNR selects a disinterested umpire to facilitate the negotiation. The local government and responsible parties may make an agreement regarding the contribution of funds. If they do not reach an agreement, the umpire makes a recommendation and the local government and responsible parties may choose whether or not to accept the recommendation.

The negotiation procedure has incentives to encourage the cooperation of responsible parties. If a responsible party enters into an agreement with a local government regarding the extent of the party's contribution of funds for the investigation or remedial action, or if the responsible party accepts the umpire's recommendation, the responsible party is not liable for any additional costs of the investigation or remedial action.

The negotiation procedure has disincentives for responsible parties who do not enter into an agreement or do not comply with the agreement. The local government may sue noncooperating responsible parties to recover a portion of the costs of the investigation and remedial action. In any lawsuit by the local government against noncooperating responsible parties, the percentage of the total costs of the investigation and remedial action that are allocated to the responsible party equals the percentage of that party's contribution to the environmental pollution resulting from the discharge or disposal of hazardous substances at the site or facility.

As of December, 2002, there are four sites involved in the negotiation procedure. In September, 1997, DNR created a pilot cost-sharing program to allocate $3,000,000 of existing general obligation bonding authority for construction projects at the landfills participating in the negotiation procedure. All of the pilot program funds have been allocated. Three communities have completed the process necessary to receive pilot program reimbursement: (a) Rice Lake, $750,000; (b) Amery, $350,000; and (c) Grafton, $400,000. The remaining $1,500,000 has been reserved for the City of Waukesha, and the City is continuing to work on technical and legal issues before it will be eligible for reimbursement under the pilot program.

Administrative rule Chapter NR 749 establishes a fee schedule used to offset DNR costs related to the negotiation and cost recovery process. The fees vary depending on the services that the local government requests from the Department.

Dry Cleaner Environmental Response Program

The dry cleaner environmental response program was created in 1997 Act 27, effective October 14, 1997, to provide financial assistance awards for reimbursement of certain eligible costs of investigation and remedial action of contamination from dry cleaning solvents at current and certain former dry cleaning facilities. DNR administers the financial assistance and remediation components of the program. The Department of Revenue (DOR) collects the fees created to support the program.

Statutes related to reimbursement of claims under the program are contained in s. 292.65. The program is also administered through rule Chapter

NR 169, effective February 1, 2000. DNR began paying awards in the summer of 2000.

Revenue

The segregated dry cleaner environmental response fund provides revenues for the dry cleaner environmental response program. Revenues received under the program totaled $5,310,700 in 1997-98 through 2001-02 (including $1,117,500 in 2001-02) and are anticipated to generate approximately $1.2 million in 2002-03. DOR is required to collect the following revenues and deposit them into the fund:

1. An annual dry cleaning facility license fee of 1.8% of the previous year's gross receipts from dry cleaning, due on January 25, April 25, July 25 and October 25 for the previous three months (prior to 2001, the fee was due annually by January 15 for the prior calendar year);

2. A dry cleaning products fee imposed on persons who sell a dry cleaning solvent to a dry cleaning facility equal to $5.00 per gallon of perchloroethylene sold and $0.75 per gallon of any dry cleaning product other than perchlorethylene sold, which is due on January 25, April 25, July 25 and October 25 for the previous three months;

3. An inventory fee imposed on each dry cleaning facility equal to $5.00 per gallon of perchloroethylene and $0.75 per gallon of hydrocarbon-based solvent in the inventory of dry cleaning facilities on October 14, 1997;

4. A penalty of $5 for each day after the due date of the quarterly installment payment for the dry cleaning facility license fee until the date that the owner or operator pays the installment payment; and

5. Any recovery of fraudulent awards.

For purposes of the fees under the program, "dry cleaning facility" is defined as a facility that dry cleans apparel or household fabrics for the general public using a dry cleaning product, other than the following facilities: (a) coin-operated facilities; (b) facilities that are located on U.S. military installations; (c) industrial laundries; (d) commercial laundries; (e) linen supply facilities; (f) facilities that are located at a prison or other penal institution; (g) facilities that are located at a nonprofit hospital or at a nonprofit health care institution; and (h) facilities that are located on property that is owned by the U.S. government or by the state of Wisconsin. Formal wear rental firms are exempt from paying the fee and not eligible to participate in the program.

DOR is required to issue a dry cleaning facility license to each person who pays the January 25 quarterly installment of the fee and the previous three quarterly installments and submits the required application form. The license is valid for the year in which the January 25 installment is due. If a dry cleaning facility is sold, the seller is authorized to transfer the license to the buyer. Suppliers of dry cleaning solvent are prohibited from selling and delivering dry cleaning solvent to a dry cleaning facility that does not hold a valid dry cleaner facility license.

Appropriations

In 2002-03, DNR is provided with $188,800 SEG with 3.0 SEG positions from the dry cleaner environmental response fund for administration of the financial assistance and remediation components of the program. This includes $124,600 SEG with 2.0 SEG positions in the Bureau for Remediation and Redevelopment to administer cleanup requirements and $64,200 SEG with 1.0 SEG position in the Bureau of Community Financial Assistance to administer financial assistance requirements. DNR is appropriated $3,027,000 SEG in 2001-02 and $1,050,000 in 2002-03 in a biennial appropriation for financial assistance awards under the program.

In 2002-03, DOR is provided with $58,300 SEG with 1.0 SEG position for administration of the revenues collected under the program.

Eligible Applicants

Owners or operators of dry cleaning facilities can apply for financial assistance to clean up contamination from dry cleaning products associated with their facility. An "owner" is defined as a person who owns, or has possession or control of, a dry cleaning facility, and who receives or received direct or indirect consideration from the operation of a dry cleaning facility regardless of whether the dry cleaning facility remains in operation and regardless of whether the person owns or receives consideration at the time that environmental pollution occurs. An "operator" is defined as a person who holds the dry cleaning facility license issued by DOR, or a subsidiary or parent corporation of that person, or a person who operated a dry cleaning facility that closed before October 14, 1997.

Owners or operators of dry cleaning facilities who want to participate in the program are required to do the following: (a) report a dry cleaning product discharge to DNR in a timely manner; (b) notify DNR, before conducting a site investigation or any remedial action activity, of the potential for submitting an application for an award under the program (this is not required for an owner or operator who began a site investigation or remedial action activity before October 14, 1997); (c) conduct an investigation to determine the extent of environmental impact of the dry cleaning solvent discharge; (d) prepare a remedial action plan that identifies specific remedial action activities proposed to be conducted; and (e) conduct remedial action activities, including recover any recoverable dry cleaning product, manage any residual solid or hazardous waste in accordance with law, and restore groundwater in accordance with DNR administrative rules.

Owners or operators of new dry cleaning facilities where construction began after October 14, 1997, are ineligible for a financial assistance award unless they implement all of the following enhanced pollution prevention measures: (a) the owner or operator manages wastes involving dry cleaning products in compliance with certain federal laws; (b) the facility does not discharge dry cleaning product into a sewer, septic system or waters of the state; (c) all machines or equipment that use dry cleaning products have appropriate containment structures that are able to contain any leak, spill or other release of dry cleaning products from the machines or other pieces of equipment; (d) floors are sealed or otherwise impervious to dry cleaning products; and (e) dry cleaning products are delivered to the facility by means of a closed, direct-coupled delivery system.

Owners or operators of dry cleaning facilities that closed before September 1, 1998, will have until August 30, 2005, to submit an application for a reimbursement award. Owners or operators of any other dry cleaning facilities will have until August 20, 2008, to submit an application for a reimbursement award.

Eligible and Ineligible Costs

Eligible reimbursable costs under the program include reasonable and necessary costs paid for the following items only: (a) removal of dry cleaning products from surface waters, groundwater or soil; (b) investigation and assessment of contamination caused by a dry cleaning product discharge from a dry cleaning facility; (c) preparation of remedial action plans; (d) removal of contaminated soils; (e) soil and groundwater treatment and disposal; (f) environmental monitoring; (g) laboratory services; (h) maintenance of equipment for dry cleaning products recovery performed as part of remedial action activities; (i) restoration or replacement of a private or public potable water supply; (j) restoration of environmental quality; (k) contractor costs for remedial action activities; (l) inspection

and supervision; (m) costs of purchase and installation of interim remedial equipment; and (n) other costs that DNR determines to be reasonable and necessary. DNR is authorized to establish a schedule of usual and customary costs for any eligible costs and use the schedule to determine the amount of a claimant's eligible costs.

Ineligible costs include the following: (a) costs incurred before January 1, 1991; (b) costs of retrofitting or replacing dry cleaning equipment; (c) other costs that DNR determines to be associated with, but not integral to, the investigation and remediation of a dry cleaning products discharge from a dry cleaning facility; (d) unreasonable or unnecessary costs; (e) costs for investigations or remedial action activities conducted outside Wisconsin; (f) costs for discharges from hazardous substances other than dry cleaning products; and (g) costs of financing eligible activities.

DNR is required to deny an application for an award if any of the following applies: (a) the application is not within the scope of the program; (b) the applicant submits a fraudulent application; (c) the applicant has been grossly negligent in the maintenance of the dry cleaning facility; (d) the applicant intentionally damaged the dry cleaning equipment; (e) the applicant falsified records; (f) the applicant willfully failed to comply with laws or rules of the state concerning the use or disposal of dry cleaning solvents; (g) the applicant has not paid the fees required under the program; and (h) the dry cleaning products discharge was caused on or after October 14, 1997, by a person who provided services or products to the owner or operator including a person who provided perchloroethylene to the owner or operator using a system other than a closed, direct-coupled delivery system.

DNR is required to subtract an amount equal to one-half of ineligible costs claimed by an owner from the eligible costs of the claim, after removing the ineligible costs from the claim. A consultant is assessed a fee equal to 50% of the ineligible costs if the claim was prepared by the consultant. The consultant may not charge the owner or operator for any of the amount the consultant is required to pay under this provision. NR 169 identifies the ineligible costs to which the penalty would apply.

DNR is authorized to promulgate rules under which it selects service providers to provide investigation or remedial action activities in specified areas. DNR may limit reimbursement of eligible costs to the amount that the selected service provider would have charged, if an owner or operator uses a different service provider than the one selected by DNR. To date, DNR has chosen not to promulgate rules related to this provision.

Award and Deductible Provisions

The Department pays an award to reimburse an applicant for eligible costs paid if DNR finds that the applicant meets the requirements of the program and rules promulgated under the program. DNR is required to approve the completed site investigation and remedial action activities before paying an award.

DNR is required to first allocate 9.7% of appropriated funds in each fiscal year for awards for immediate action activities and applications that exceed the amount anticipated. DNR uses the remaining funds for reimbursement of site investigations and remedial actions. DNR is required to allocate the remaining funds between costs incurred before October 14, 1997 ("past costs") and costs incurred on or after October 14, 1997. Chapter NR 169 required all applications for reimbursement of past costs to be submitted to DNR by April 30, 2000. DNR paid 11 eligible claims for $549,340 in past costs, and does not have other pending claims for past costs. In addition, six eligible claims for past costs were less than the deductible and received no reimbursement.

DNR is required to establish a method for determining the order in which it pays awards, and to base the method on environmental factors and on the order in which applications are received. Under Chapter NR 169, DNR assigns applications to one of three site hazard categories after reviewing an interim action options report or remedial action options report. DNR allocates the funds for interim remedial action equipment, site investigations and remedial actions between the three categories. The categories and allocation are:

1. Category A ("imminent-risk" sites) is allocated 60% of available funds and consists of sites that DNR determines pose an imminent risk to human health or the environment. Examples include sites where the dry cleaning product has contaminated public or private drinking water supplies in concentrations that exceed the health-based standard for the contaminant or where contamination of the drinking water supply is imminent.

2. Category B ("significant-risk" sites) is allocated 25% of available funds and consists of sites that DNR determines pose a significant risk to human health or the environment, or both. Examples include sites where there is contamination of a water supply below health standards or impacts above an environmental standard to surface water or wetlands.

3. Category C ("low-risk" sites) is allocated 15% of available funds and consists of sites that pose a risk to human health or the environment, or both. Examples include sites with soil contamination that is not migrating to groundwater or surface water or where contamination levels are below health-based standards and are not expected to increase over time.

The maximum award is $500,000 for reimbursement for costs incurred at a single dry cleaning facility. The owner or operator must pay a deductible equal to the following: (a) if eligible costs are $200,000 or less, $10,000; (b) if eligible costs are $200,001 to $400,000, $10,000 plus 8% of the amount by which eligible costs exceed $200,000; and (c) if eligible costs exceed $400,000, $26,000 plus 10% of the amount by which eligible costs exceed $400,000.

DNR may waive collection of the deductible if the owner or operator is unable to pay. If the deductible is waived, DNR records a lien on the property until the deductible amount is paid. DNR has waived the deductible for two properties as of December, 2002, and is in the process of recording a lien on the properties.

If an owner or operator receives insurance proceeds for any eligible cleanup costs before submitting a claim for reimbursement under the program, DNR is required to reduce the award by the amount by which the insurance proceeds exceed the sum of the deductible and any eligible costs that exceed the maximum reimbursement amount, up to the maximum award. If an owner or operator receives insurance proceeds after receiving an award under the program, the owner or operator must pay to DNR the amount by which the insurance proceeds exceed the sum of the deductible and any eligible costs that exceed the maximum reimbursement amount, up to the amount of the award received. DNR is required to deposit any amounts collected under this provision in the dry cleaner environmental response fund.

Participation

As of December 1, 2002, DNR had paid 39 claims for 23 dry cleaner facility sites totaling $2,046,154 and was reviewing three other claims totaling $544,642. Of the 39 claims paid, $549,340 (27%) and 11 claims were for past costs, $1,327,182 (65%) and 24 claims were for post-October 14, 1997 category B (significant-risk) sites and $169,632 (8%) and four claims were for category C (low-risk) sites. No costs were for reimbursement of immediate actions or category A (imminent-risk) sites. DNR is also aware of approximately 50 other

sites that are expected to request reimbursement under the program in the next several months.

Use of Environmental Fund

If DNR uses the state-funded response appropriation from the segregated environmental fund to pay for a cleanup of a discharge of dry cleaning solvent at a dry cleaning facility, DNR is required to transfer an equal amount of money from the dry cleaner environmental response financial assistance appropriation to the environmental fund when sufficient funds are available. DNR has determined that owners of two dry cleaning facilities are unable to pay for the cleanup. DNR estimates that $153,500 in investigation costs will be incurred by the environmental fund and reimbursed by the dry cleaner environmental response appropriation. Remediation costs at the two sites have not yet been determined.

Liability

Under the program, conducting a cleanup or applying for an award under the program is not an admission of liability for environmental pollution. The program does not supersede common law or statutory liability for damages from a dry cleaning facility. An award under the program would be the exclusive method for the recovery of eligible costs. If a person conducts a remedial action activity for a discharge at a dry cleaning facility site, whether or not the person files an application under the program, the remedial action activity conducted and any application filed under the program would not be evidence of liability or an admission of liability for any potential or actual environmental pollution.

Dry Cleaner Environmental Response Council

A six-member Dry Cleaner Environmental Response Council advises DNR concerning the program. The Council consists of the following members appointed by the Governor for three-year terms: (a) one representative of dry cleaning operations with annual gross receipts of less than $200,000; (b) two representatives of dry cleaning operations with annual gross receipts of at least $200,000; (c) one representative of wholesale distributors of dry cleaning solvent; (d) one engineer or hydrogeologist with knowledge, experience or education concerning environmental remediation; and (e) one representative of manufacturers and sellers of dry cleaning equipment.

The Council is required to evaluate the program at least every five years, based on criteria developed by the Council. In December, 2001, the Council included an addendum to the DNR report described in the following section. The Council supported the recommendations of the DNR report.

Program Sunset and Review

The program and fees have a statutory sunset of June 30, 2032 (35 years after creation). DNR was required to, no later than January 1, 2002, complete a review of the program and submit a report on the results of the review to the Joint Committee on Finance and the appropriate standing committees of the Legislature. The report was to include the Department's recommendations for changes to the program and to also include consideration of whether: (a) the program should be expanded or ended; (b) the program should be incorporated into a broader program of financial assistance for the remediation of environmental contamination; and (c) private insurance coverage should be required for any dry cleaning facilities.

DNR submitted the required report to the Legislature in December, 2001. The report included the following recommendations: (a) maintenance of adequate program funding is crucial; (b) the partnership that exists between DNR, DOR and the dry cleaning industry needs to be maintained; (c) DNR, DOR and the industry need to continue and enhance the communication and outreach related

to the program; (d) DOR should streamline its management, implementation and enforcement of revenue collections for the program; (e) DNR should continue to participate in the States Coalition for the Remediation of Dry Cleaners (a coalition of several states); and (f) DNR, DOR and industry should pursue statutory changes to improve the program.

DNR and the industry representatives also recommended: (a) increasing penalties for dry cleaners that operate without a license; (b) resolving timing issues related to DOR issuance of licenses so that dry cleaners do not operate from January 1 until mid-February without a license; (c) changing the current deadline of August 30, 2005, for submittal of reimbursement requests by owners or operators of dry cleaning facilities that closed before September 1, 1998, to a deadline for submitting a notification of potential claim for the program; (d) making it illegal for a chemical supplier to sell dry cleaning products to a dry cleaning facility that does not have a license; (e) expanding the pollution prevention requirements to apply to all dry cleaning facilities, instead of those constructed after October 14, 1997, under current law.

Brownfield Site Assessment Grant Program

The brownfield site assessment grant program was created in 1999 Act 9 to provide local governments with grants to perform the initial investigation of contaminated properties and certain other eligible activities. DNR administers the program from a biennial appropriation from the environmental management account of the environmental fund. DNR was provided with $1,450,000 SEG in the 1999-01 biennium, and with $1,700,000 SEG in each of 2001-02 and 2002-03. Cumulative funding for the program is $4,850,000 through 2002-03.

Statutes related to grants under the program are contained in s. 292.75 of the statutes. The program is also administered through administrative rule Chapter NR 168, effective July 20, 2000.

Eligible Applicants and Sites

Local governments may apply for a site assessment grant for eligible sites or facilities. A local government includes a city, village, town, county, tribe, redevelopment authority, community development authority and housing authority.

A local government is not eligible for a grant if it caused the environmental contamination that is the basis of the grant request. DNR may only award a grant if the person that caused the environmental contamination that is the basis for the grant request is unknown, cannot be located or is financially unable to pay the cost of the eligible activities.

A site or facility is eligible for a grant if it is an abandoned, idle or underused industrial or commercial facility or site, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination. A local government does not have to own the site but must have access to it to complete the grant activities.

Eligible Costs and Grant Criteria

The following activities are eligible for a site assessment grant at an eligible site or facility: (a) phase I and II environmental assessments: (b) site investigation of environmental contamination; (c) demolition of structures, buildings or other improvements; (d) asbestos abatement, if it is a necessary part of demolition activity; and (e) removal and proper disposal of abandoned containers, underground petroleum product storage tank systems or underground hazardous substance storage tank systems.

The local government is required to contribute matching funds equal to 20% of the grant amount, which may be in the form of cash or an in-kind contribution or both. Grants to a local government may not exceed 15% of the total amount appropriated for the program in the fiscal year.

Before awarding a grant, DNR is required to consider the local government's commitment to completing the remediation activities on the eligible site, the degree to which the project will have a positive impact on public health and the environment, and other criteria. Administrative rule NR 168 establishes a point scoring system to rank applications when grant requests exceed available funding. Points are awarded for the following criteria: (a) 15 points for an eligible site within 1,200 feet of a school, park, residence or drinking water supply well; (b) 15 points for an eligible site that has contamination readily accessible to the public; (c) five points for a site that will remain under the ownership of a local government or non-profit organization; (d) 10 points for any site for which the local government has initiated the formal acquisition process or 20 points if the local government holds title to the site; (e) one point, up to a maximum of 40 points, for every $2,500 of eligible costs incurred up to five years prior to the application date; and (f) one point, up to a maximum of 40 points, for each additional 2% of match above the required 20%. In addition, an applicant may assign a one-time bonus of 29 points to one application for a large project and one application for a small project that it considers to be a priority.

NR 168 allocates 70% of the grant funds to small grants between $2,000 and $30,000. The remaining 30% of grant funds are allocated to large grants between $30,001 and $100,000.

Participation

DNR made the first grant awards under the site assessment grant program in the fall of 2000. Site assessment awards as of January 1, 2003, are listed in Appendix III and include 103 grants to 63 different municipalities for $3,150,000 awarded under the 2000-01 and 2001-02 grant cycles These awards include $2,205,000 for small grants and $945,000 for large grants. The City of Milwaukee received the largest amount of grants, with 17 grants for $430,773, equaling 13.7% of awarded grant dollars. DNR had a November 1, 2002, deadline for applications for 2002-03 awards, and will make awards in early 2003.

Sustainable Urban Development Zone Program

1999 Act 9 created a sustainable urban development zone pilot program and provided $2,380,000 SEG in 1999-00 from the environmental management account of the environmental fund. DNR was required to develop and administer a pilot program, in consultation and cooperation with DOA and the Department of Commerce, and the Cities of Milwaukee, Green Bay, La Crosse, Oshkosh and Beloit, that promotes the use of financial incentives to cleanup and redevelop contaminated properties in the five cities. The state funds may be used to investigate environmental contamination and cleanup brownfields properties in the cities.

Act 9 designated that specific amounts be available as grants to the five cities. A partial veto by the Governor resulted in an appropriation of $2,380,000 instead of the funding designation total of $2,450,000 for the five cities. Each of the cities was awarded a prorated grant amount.

2001 Act 16 provided $525,000 SEG in 2001-02 from the environmental management account for the program, specified grant amounts for the Cities of Platteville and Fond du Lac, and specified that the remaining $125,000 would be awarded to municipalities through a competitive process.

While Act 16 deleted references to the program as a "pilot," it did not provide ongoing funding beyond the 2001-03 biennium.

The grant amount and activities funded through the grant agreements between DNR and each of the seven specified cities are:

Milwaukee. $971,429 to investigate and cleanup contamination at Menomonee River Valley properties that used to house railroad car and engine construction and repair and rail car switching and storage.

Green Bay. $485,714 to assess, investigate and remediate several properties for commercial, residential and recreational open space use.

La Crosse. $485,714 to investigate area-wide environmental contamination in redevelopment areas north and south of the La Crosse River in order to create a mixed-use recreational and commercial development.

Oshkosh. $242,857 to assess, investigate and remediate several sites in the Fox River corridor.

Beloit. $194,286 to investigate and cleanup contamination at a former manufactured gas plant in order to redevelop the property as residential condominiums.

Platteville. $150,000 to complete an investigation begun with site assessment grants at three former commercial and light industrial properties, in order to redevelop the property for mixed-income housing.

Fond du Lac. $250,000 to investigate and cleanup contamination at four former industrial properties, in order to redevelop the properties as recreational, housing, office, green space, a municipal wastewater treatment facility and a highway department maintenance yard.

As of January 1, 2003, DNR had published several selection criteria it would use to award the $125,000 in unallocated funding, was accepting applications, and expected to make one or more awards in the spring of 2003.

Brownfields Green Space and Public Facilities Grant Program

2001 Act 16 created a brownfields green space grant program and provided $1,000,000 SEG in 2001-02 in a biennial appropriation from the environmental management account of the environmental fund. Act 16 did not provide ongoing funding beyond the 2001-03 biennium. DNR is required to make awards to local governments for brownfields remediation projects that have a long-term public benefit, including the preservation of green space, the development of recreational areas, or the use of a property by the local government.

Statutes and regulations for grants under the program are contained in s. 292.79 of the statutes and administrative rule Chapter NR 173, which took effect as an emergency rule on August 28, 2002, and as a permanent rule on December 1, 2002. Applications for 2001-03 funding are due to DNR in January, 2003, and grant awards will be made in approximately March of 2003.

NR 173 specifies that costs eligible for reimbursement under the program include remedial action, preparation of the remedial action plan, and removal of underground storage tanks or abandoned containers when done as part of the remedial action. The local government applicant is required to provide a match equal to 20% of the grant amount if the grant is $50,000 or less, 35% if the grant is greater than $50,000 and less than $100,000, or 50% if the grant is $100,000 to $200,000. The rule sets a maximum grant amount of $200,000.

The local government may include as match, grant eligible expenses and non-reimbursable expenses such as costs for property acquisition, site investigation, demolition of buildings or structures, asbestos abatement associated with demolition, removal of debris or waste, environmental assessment, and planning and design of the green space or local government use.

The rule requires DNR to award at least 20% of the total funding to applications for $50,000 or less. DNR will score applications based on criteria including the demonstrated need for the project, commitment of the applicant, environmental benefits and financial commitment to the project.

Funding for DNR Administration

DNR Appropriations

Funding for DNR administration for contaminated land and brownfields cleanup programs comes from general purpose revenues, program revenues from fees for certain requests for DNR actions related to contaminated properties, payments from responsible parties, segregated revenues from the environmental management account of the environmental fund and federal funds. For 2002-03, DNR has 110 staff and appropriations of $8.7 million in the remediation and redevelopment program for administration of contaminated land and brownfields cleanup programs, as shown in Table 4.

Table 4: Authorized Staff and Administrative Appropriations for DNR's Bureau for Remediation and Redevelopment and Regional Remediation and Redevelopment Staff -- 2002-03

Funding Source	Staff: Permanent Positions	Staff: Project Positions	Appropriation
General Fund			
Bureau for Remediation and Redevelopment - administration	11.5		$870,500
Program Revenue			
Purchaser liability and municipality negotiation and cost recovery	12.0		895,200
Solid and hazardous waste administration	2.5		156,500
GIS Groundwater Registry	---		118,600
Department of Transportation Contract	---		203,800
Segregated Funds			
Environmental Fund – administration	42.5		3,037,000
Petroleum Inspection Fund - PECFA cost control and brownfields administration	4.0		294,000
Dry Cleaner Environmental Response Fund – administration	2.0		124,600
Federal Funds			
Superfund and hazardous waste administration	19.5	4.0	2,343,200
LUST – administration	12.0		661,000
TOTAL	106.0	4.0	$8,704,400

In addition, Department staff perform administrative or support functions in the central program management of the Division of Air and Waste, and in the Divisions of Enforcement and Science, Administration and Technology and Customer Assistance and External Relations. These staff are funded from the general fund, environmental fund, dry cleaner environmental response fund and federal revenues.

Environmental Fund Revenues

The segregated environmental fund is primarily used for DNR program activities related to groundwater management, environmental response and repair and nonpoint source water pollution abatement programs. [The nonpoint programs are discussed in Informational Paper #63, prepared by the Legislative Fiscal Bureau.] The environmental management account of the environmental fund includes appropriations for DNR administrative, enforcement, preventative, cleanup and groundwater management activities. It also funds environmental programs administered by other state agencies, including the Department of Commerce, the Department of Health and Family Services, the Department of Military Affairs and the University of Wisconsin System.

The estimated condition of the environmental management account of the environmental fund is shown in Table 5. Revenues to the environmental management account of the environmental fund are generated from several fees that totaled approximately $19.5 million in 2000-01 and $29.6 million in 2001-02, as shown in Table 6. These revenues are described in the following section. Table 7 shows the landfill fees paid to the environmental management account. Appendix IV lists appropriations from the environmental management account of the environmental fund during 2001-03.

Table 5: Environmental Management Account of the Environmental Fund, Condition 2001-03 ($ in Millions)

	2001-02 Actual	2002-03 Estimated
Opening Balance, July 1	$19.5	$4.8
Revenue	29.6	25.8
Total Revenue Available	49.1	30.6
Expenditures	-$18.7	-$25.3
Transfer to General Fund	-0.7	-1.4
Encumbrances and Continuing Balances	-24.9	-0.0
Closing Balance, June 30	$4.8	$3.9

Table 6: Environmental Fund Revenues for the Environmental Management Account, 2000-01 and 2001-02

Revenue Source	2000-01 Revenue	2001-02 Revenue
Vehicle Environmental Impact Fee	$8,772,000	$12,174,900
Environmental Repair Tipping Fee	3,757,800	3,957,000
Hazardous Spill Reimbursement	270,600	3,347,400
Site Specific Remediation	0	2,166,100
Petroleum Inspection Fund	1,816,300	1,816,300
Pesticide and Fertilizer Fees	1,282,200	1,306,700
Lapse from well compensation balance	0	1,000,000
Groundwater Waste Generator Fee	862,900	876,700
Sanitary Permit Surcharge	509,700	568,400
Hazardous Waste Generator Fee	576,400	552,400
Transfer from Tribal Gaming Revenues	0	500,000
Well Compensation Fee	364,000	367,800
Nonmetallic Mining Fees	0	208,800
Environmental Assessment	104,100	150,300
Land Disposal Permit	104,300	64,500
Bulk Tank Surcharge	39,300	25,600
Civil Action Damages	26,400	24,000
Septic System Servicing Fee	39,400	10,000
Environmental Repair Surcharge	6,300	5,400
Environmental Repair Base Fee	6,100	4,100
Cooperative Remedial Action	11,900	3,700
Investment Income	983,200	478,700
Miscellaneous Revenue	8,300	11,100
Total	$19,541,200	$29,619,900

Vehicle Environmental Impact Fee. A $9 per vehicle fee is assessed at the time of titling new and used vehicles. Between December 1, 1999, and September 30, 2001, the fee was $6 per vehicle. Between December 1, 1997, the effective date of the fee, and November 30, 1999, the fee was $5 per vehicle. The Department of Transportation collects the fees and deposits them in the environmental

Table 7: Landfill Fees for the Environmental Fund*

	Approved Landfills Per Ton	Nonapproved Landfills: With Closure Agreement Per Ton	Nonapproved Landfills: Without Closure Agreement Per Ton
Environmental Repair Fee:			
Municipal and Non High-Volume Industrial	50¢	50¢	50¢
High-volume Industrial	20¢	20¢	20¢
Groundwater Fee	10¢	10¢	10¢
Well Compensation Fee	4¢	4¢	4¢
Nonapproved Facility Fees and Surcharge:			
Solid Non-Hazardous Waste	---	1.875¢	2.25¢
Hazardous Waste	---	18.75¢	22.5¢
		Annual Fee	Annual Fee
Environmental Repair Base Fee**	---	$100	$1,000

* In addition to the fees deposited in the environmental fund, waste facilities pay a Solid Waste Facility Siting Board fee of 1.7¢ per ton, a program revenue fee for landfill administration of 9¢ per ton, and, for waste that is not high-volume industrial waste, a recycling tipping fee of $3.00 per ton.

** The amount of the environmental repair base fee is deducted from the total tonnage and surcharge fees.

fund. The fee is repealed on December 31, 2003.

Environmental Repair Tipping Fee. Fees paid by a waste facility into the environmental management account are based on: (a) annual tonnage; (b) whether the facility disposes of high-volume industrial waste or other waste; and (c) whether the facility is an "approved" or "nonapproved" facility.

Solid and hazardous waste facilities (landfills) pay a tipping fee for each ton of waste, except materials used for lining, daily cover, capping or constructing berms, dikes or roads within the facility. Facilities that dispose of municipal, hazardous or non-high volume industrial waste pay 50¢ per ton and facilities that dispose of only high-volume industrial waste pay 20¢ per ton (high-volume industrial waste includes paper mill sludge, bottom ash, foundry process waste and fly ash).

In addition, nonapproved facilities pay 1.5¢ per ton of solid non-hazardous waste disposed and 15¢ per ton of hazardous waste. (There are no hazardous wastes disposed of in Wisconsin at this time and thus, no revenue is generated from hazardous waste tonnage fees.) Nonapproved facilities also pay an environmental repair surcharge equal to 25% of the tonnage fee if the facility has a closure agreement, or 50% of the tonnage fee if the facility does not have a closure agreement.

Hazardous Spill Reimbursement. When DNR cleans up hazardous substances spills with state funds, it seeks compensation from responsible parties. The compensation is deposited in the environmental fund. DNR may also recover its costs of remedying adverse effects upon the waters of the state resulting from the unlawful discharge or deposit of pollutants in the waters.

Site Specific Remediation. 2001 Act 16 specified certain revenues to be deposited in the environmental management account, and created an appropriation to expend the moneys for the purposes received for remediation at specific sites. The revenues include all moneys received: (a) in settlement of actions initiated under federal CERCLA regulations (Comprehensive Environmental Response, Compensation and Liability Act); and (b) other than fines and forfeitures, under settlement agreements or orders in settlement of actions for violations of chapters 280 to 299 and that are designated to be used to restore or develop environmental resources, to provide restitution, or to make expenditures required under an agreement or order.

Petroleum Inspection Fund. An annual appropriation of $1,816,300 in 2001-02 and $1,816,300 in 2002-03 is made from the petroleum inspection fund to the environmental fund. The appropriation includes $766,900 in each year for groundwater management and $1,049,400 in each year (including $80,000 for well compensation) for environmental repair. A petroleum inspection fee

of 3¢ per gallon is assessed on all petroleum products brought into the state. The fee generates approximately $111 million annually. Fee revenues are deposited in the segregated petroleum inspection fund and are used primarily to fund cleanup of petroleum-contaminated sites under the PECFA program.

Pesticide and Fertilizer Fees. License fees are assessed annually on manufacturers and labelers of pesticides and collected by DATCP. Of the total fee (which ranges from $215 to $2,760 based on the annual sales), $124 per each household pesticide product licensed and $94 per each nonhousehold pesticide product licensed is deposited in the environmental fund. The remaining fees are deposited in the segregated agrichemical management fund. License applicants pay a cleanup surcharge, which is deposited in the environmental fund, for nonhousehold pesticide products that are wood preservatives solely labeled for use on wood and that contain pentachlorophenol or coal tar creosote. The surcharge ranges from $5 if sales of the product in the state are less than $25,000 to 1.1% of gross revenues if sales of the product exceed $75,000 in the state. Persons who sell or distribute fertilizer or who distribute a soil or plant additive in Wisconsin are required to pay a groundwater fee of 10¢ per ton of fertilizer, with a minimum fee of $1 for aggregate sales of 10 tons or less. Producers of pesticides must pay a well compensation fee of $150 annually. The fees are collected by DATCP and deposited in the environmental fund.

Lapse from Well Compensation Balance. 2001 Act 16 required the lapse of $1,000,000 from the unencumbered balance of the well compensation program to the environmental fund in 2001-02. The program provides grants to homeowners for the replacement of contaminated wells.

Groundwater Waste Generator Fee. To support groundwater programs, solid and hazardous waste disposal facilities pay a waste generator fee of 10¢ per ton of waste disposed of at the facility, except materials used for lining, daily cover, capping or constructing berms, dikes or roads within the facility. The fee is 1¢ per ton for prospecting or mining waste, including tailing solids, sludge or waste rock.

Sanitary Permit Surcharge. Local governments are required to issue a sanitary permit before a person may install any septic tank or private sewage system. The fee for the sanitary permit must be at least $61, of which $20 is sent to the Department of Commerce. In addition to the sanitary permit fee, the local government that issues the permit is required to collect a $25 groundwater surcharge and pay it to Commerce, which then deposits the surcharge in the environmental fund.

Hazardous Waste Generator Fee. A $210 base fee plus $20 per ton is charged to all generators of hazardous waste that are required to report annually to DNR under the state's hazardous waste law. (For calendar years prior to 1999, the base fee was $125 and the fee per ton was $12.) Producers of at least 220 pounds of hazardous waste in any month report annually and pay the fee unless the waste is: (a) recovered for recycling or reuse; (b) leachate being transported to a wastewater treatment plant; or (c) removed from the site as part of an environmental cleanup project. The minimum fee for a single generator is $125 and the maximum is $17,000. (Prior to calendar year 1999, the maximum fee was $10,000.)

Transfer from Tribal Gaming. 2001 Act 16 required the transfer of $500,000 in 2001-02 and $1,000,000 in 2002-03 from tribal gaming revenues to the environmental fund in the 2001-03 biennium only.

Well Compensation Fee. An owner or operator of a licensed solid or hazardous waste disposal facility collects a well compensation fee of 4¢ per ton of non-mining waste from the generator for

payment to the environmental management account.

Nonmetallic Mining Fees. Counties were required to enact and administer a nonmetallic mining reclamation ordinance that complies with DNR administrative rules by June 1, 2001. All 71 counties that were required to adopt an ordinance did so. (Milwaukee County is not required to adopt an ordinance because all municipalities within the county with nonmetallic mines adopted ordinances.) Over 20 towns, villages and cities enacted and are administering ordinances. DNR would administer and enforces nonmetallic mining reclamation requirements if a county did not adopt an ordinance. A county or municipality with an ordinance collects annual fees to cover the local and DNR costs of administering the program. The DNR's share of the fees equals $30 to $150, depending on the mine size in unreclaimed acres. The counties collect DNR's share of fees and pay them to DNR for deposit in the environmental fund.

Environmental Assessment. When a court imposes a fine or forfeiture for violation of administrative rules or DNR orders related to pollution discharge, drinking water or septic tank statutes, it also imposes an environmental assessment which DNR deposits in the environmental fund. The assessment is equal to 10% of the fine or forfeiture. Fifty percent of the assessments are deposited in the University of Wisconsin System's environmental education appropriation to fund environmental education grants.

Land Disposal Permit. Persons who discharge certain pollutants into the waters of the state are required to obtain a water pollutant discharge elimination system permit. The permit holder is also required to pay a $100 annual groundwater fee if the permittee discharges effluent on land or produces sludge from a treatment work that is disposed of on land. The permittee is required to pay a $200 annual groundwater fee if the permittee discharges effluent on land and disposes of sludge from a treatment work on land.

Bulk Tank Surcharge. Persons must receive approval from Commerce of plans for installation of or change in the operation of a previously approved installation for the storage, handling or use of flammable or combustible liquids. In addition to any plan review fees, a groundwater fee of $100 per plan review submittal for tanks with a capacity of 1,000 gallons or more is collected and deposited in the environmental fund.

Civil Action Damages. The fund receives compensation resulting from court ordered payments by responsible parties for specific cleanup activities.

Septic System Servicing Fee. Persons who remove and dispose of septage from septic tanks, soil absorption fields, holding tanks, grease traps or privies must pay a septic servicing license fee of $50 per servicing vehicle for two years. In addition, the licensee is required to pay a groundwater fee of $50 that is deposited in the environmental fund.

Environmental Repair Base Fee and Surcharge. Owners of approved solid waste facilities do not pay a base fee into the environmental fund. There are two different annual base fees for nonapproved facilities. If the owner of a nonapproved facility has signed an agreement with DNR to close the landfill on or before July 1, 1999, the annual base fee is $100. If no closure agreement has been signed, the annual base fee is $1,000. The amount of the base fee is deducted from the tipping fees for nonapproved facilities described previously. Nonapproved facilities with a closure agreement pay a fee of 1.875¢ per ton of solid non-hazardous waste or 2.25¢ per ton without a closure agreement.

Cooperative Remedial Action. DNR is authorized to seek and receive voluntary

contributions of funds from a municipality or any other public or private source for all or part of the costs of remedying environmental contamination if the activities being funded are part of a cooperative effort by DNR and the person providing the funds, to remedy the contamination. Any funds received are deposited into the environmental fund. Any cooperative remedial action revenues may only be used for the activities agreed on by DNR and the person providing the funds.

Investment Income. Interest earned on state investments is distributed to various funds, including the environmental fund, based on its monthly cash balance. Any interest is credited to the fund for use in cleanup and administrative activities of the program.

Program Revenues

DNR is authorized to assess and collect fees to offset the costs for DNR activities related to approving requests for certain exemptions from future liability for cleanup of contaminated property.

Administrative rule NR 750, effective March 1, 1996, includes a system of hourly fees to be paid by a voluntary party who seeks an exemption from liability or limit on future remediation costs. The initial fees include a non-refundable application fee of $250 and an advance deposit to cover DNR oversight and review, which is $1,000 if the property is less than one acre or $3,000 if the property is one acre or greater. DNR must return any amount in excess of DNR's oversight costs when the Department's review activities are completed. If the advance deposit is depleted and additional DNR review is needed, DNR is authorized to bill applicants quarterly according to an hourly rate based on the average hourly wages of program staff, fringe benefits and associated costs.

The hourly billing rate is $75 per hour in 2002 and can be recalculated annually. (The fee was initially $55 per hour in 1996.) After DNR approves a final remedial design, an applicant can choose to cover remaining DNR review costs, including DNR issuance of a certificate of completion, by either continuing quarterly billing or paying a final fee that equals 40% of the total DNR oversight costs incurred up to and including the approved final remedial design.

Since September, 1998, administrative rule NR 749 has contained a fee schedule of fixed fee amounts for a number of services provided by DNR to persons who request certain departmental assistance. Fees authorized in NR 749 offset the costs for much of the technical and redevelopment assistance provided by DNR. Persons who request the voluntary party exemption would pay the NR 750 hourly fees instead of the NR 749 fixed fees.

When a person requests that DNR review certain documents, the person must pay the applicable flat fee. When the NR 700 rules require that a document be submitted to DNR, but the person does not specifically request review of the document, then no fee is required.

Examples of types of requests for which a fee is charged under NR 749 are: (a) issuance of a case closure letter that provides the DNR's determination that, based on information available at the time of the department's review, no further action is necessary after a site investigation and cleanup has been completed; (b) issuance of an off-site letter that clarifies who is not responsible when contamination is migrating on to a property from an off-site source; (c) approval of the use of site specific soil cleanup standards; (d) issuance of a no further action letter for a spill site where an immediate action was undertaken; (e) issuance of a letter to clarify liability for site-specific matters related to the environmental pollution and remediation of a property; (f) issuance of a letter to a lender explaining the potential liability associated with acquiring a contaminated property; and (g)

negotiation of an agreement containing a schedule for conducting non-emergency actions with a person who possesses or controls a hazardous substance that was discharged or who caused the discharge.

In 2000-01 through 2001-02, approximately 72% of revenues collected were from issuance of case closure letters, many of which were for PECFA-eligible petroleum-contaminated sites. DNR has collected revenues from NR 750 and NR 749 fees of $3,148,300 as of June 30, 2002, for deposit in a program revenue account that funds DNR staff who administer the liability exemption provisions. DNR is authorized $895,200 PR and 12.0 PR positions funded from the fees in 2002-03. The revenues include $497,400 in 2001-02, which is a decrease from an annual high of $979,900 in 1998-99. The decrease is primarily a result of the transfer of jurisdiction over many petroleum-contaminated sites from DNR to Commerce.

In addition to the fees collected related to liability exemptions, DNR collects fees related to adding sites to an online geographic information system (GIS) registry of sites approved for closure where a groundwater enforcement standard is exceeded (effective November 1, 2001) or closed with residual soil contamination (effective August 1, 2002). The fee is $250 for adding sites with groundwater contamination and $200 for adding sites with soil contamination to the GIS registry. The fees totaled $108,500 in 2001-02 and are deposited in an Air and Waste Division program revenue account for general program operations of the Division.

CHAPTER 3

PROGRAMS ADMINISTERED BY OTHER STATE AGENCIES

Brownfields Grant Program

The Department of Commerce administers the brownfields grant program, which was created in 1997 Wisconsin Act 27 to provide financial assistance for brownfields redevelopment and related environmental remediation projects. Grants can be used to fund the costs of brownfields redevelopment projects and associated environmental remediation activities. For purposes of the brownfields grant program, "brownfields" are abandoned, idle or underused industrial or commercial facilities or sites, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination.

In the 2001-03 biennium, $14 million is provided for brownfields grants from the environmental management account of the environmental fund. This includes $7 million in each of 2001-02 and 2002-03. [Further information about the program can be found in Legislative Fiscal Bureau Informational Paper #82, "State Economic Development Programs Administered by the Department of Commerce."]

Agricultural Chemical Cleanup Program

In 1993 Wisconsin Act 16, an agricultural chemical cleanup program was created in the Department of Agriculture, Trade and Consumer Protection (DATCP). The act transferred responsibility for the investigation and remediation of agricultural chemical spills from DNR to DATCP. The act also established a grant program to fund a portion of cleanup costs and increased current DATCP pesticide and fertilizer fees to partially fund the program. 1997 Wisconsin Act 27 split agrichemical revenues into base fees deposited to the agrichemical management (ACM) fund and surcharges deposited to the agricultural chemical cleanup program (ACCP) fund.

Agrichemical Management Fund

The agrichemical management fund receives revenues from several feed, fertilizer and pesticide license and tonnage fees. In 2001-02, ACM revenues totaled $4.2 million and expenditures were $5.7 million. In total, the ACM supports 49.5 positions in DATCP. The funds are used for: (a) DATCP administration of the cleanup grant program and inspection and regulation of the individuals and businesses that manufacture and distribute feed, fertilizer and pesticide products in Wisconsin; (b) DATCP administration of groundwater management programs; (c) agricultural clean sweep grants to counties to prevent contamination through agrichemical collection ($365,400 in 2001-02); and (d) agriculture in the classroom program grants that help teachers educate students about agriculture ($100,000 in 2001-02). The Department allocated 11.0 staff and $1,199,000 in 2001-02 for ACCP reimbursements, case investigations and oversight (which includes the lead arsenate and pollution prevention subprograms).

In 2001-02, approximately $4.2 million was deposited to the ACM fund. This amount is expected to increase to $5.1 million in 2002-03 based on full resumption of all fees, plus a loan repayment.

Revenues come from the following sources: (a) $30 annual license fees for fertilizer manufacturers and distributors; (b) fertilizer tonnage fees of $0.30 per ton (as of June 30, 2001, previously they were $0.23 per ton); (c) one-time fertilizer permits of $25; (d) $25 annual licenses for soil and plant additive manufacturers and distributors; (e) $100 one-time soil and plant additive permits for new products; (f) soil and plant additive tonnage fees of $0.25 per ton; (g) annual lime license fees of $10; (h) $25 annual licenses for feed manufacturers and distributors; (i) feed tonnage fees of $0.13 per ton ($0.23 after January 1, 2002); (j) restricted use pesticide dealer licenses of $60; (k) pesticide applicator licenses [$30 individuals ($40 beginning in 2003) and $70 businesses]; (l) nonresident commercial applicator reciprocal certificate fees of $75; (m) $25 biennial veterinary clinic permits; and (n) household, industrial and nonhousehold pesticide registration fees ranging from $91 to over $2,700 ($141 to over $3,000 beginning in 2003), depending on the quantity sold.

Agricultural Chemical Cleanup Program Fund

The ACCP is for the cleanup of fertilizers and nonhousehold pesticides, including spills occurring at commercial fertilizer blending facilities, commercial pesticide application businesses and farm sites. Grants may be provided for cleanup costs incurred within three years of the application date. Further, grants may be provided for first and subsequent spills at the same site. After a one-time deductible of $3,000 for farms and small businesses and $7,500 for larger commercial businesses, the ACCP fund reimburses owners for up to 80% of agricultural chemical spill cleanup costs, with a maximum $400,000 per cleanup site lifetime limit for all discharges. Table 8 lists the maximum grant levels available under the program.

The ACCP fund receives revenues from industry fertilizer and pesticide license and tonnage surcharges. Revenues deposited to the ACCP were $1.5 million in 2001-02. Based on full resumption of all fee surcharges, deposits are expected to increase to $2.6 million in 2002-03. Revenues come from the following sources: (a) fertilizer tonnage surcharges of $0.38 per ton; (b) pesticide (nonhousehold) surcharges of $5 per pesticide for products with Wisconsin sales less than $25,000, $170 for products with Wisconsin sales from $25,000 to $75,000, or 1.1% of sales for products with Wisconsin sales greater than $75,000; (c) $20 annual license surcharges for fertilizer manufacturers and distributors; (d) $40 annual license surcharges for restricted use pesticide dealers and distributors; (e) $55 annual surcharges for commercial application businesses; and (f) $20 annual surcharges for individual commercial applicators.

For grant requests exceeding $7,500, a work

Table 8: Agricultural Chemical Cleanup Program – Maximum Lifetime Grant Levels

Licensed Commercial Facilities			Non-Licensed Facilities		
Cleanup Costs Incurred	Percent of Costs Reimbursed	Maximum Grant	Cleanup Costs Incurred	Percent of Costs Reimbursed	Maximum Grant
Up to $7,500	0%	$0	Up to $3,000	0%	$0
$7,500 to $100,000	80%	$74,000	$3,000 to $100,000	80%	$77,600
$100,000 to $400,000*	80%	$314,000	$100,000 to $400,000*	80%	$317,600
Over $400,000	0%	$314,000	Over $400,000	0%	$317,600

*Provided that DATCP orders groundwater remediation or approves a soil contamination reimbursement amount prior to incurring costs over $100,000.

plan submission and approval is required prior to the initiation of cleanup actions. Grant applicants must meet the following conditions: (a) compliance with all DATCP and DNR orders; (b) prompt reporting of the discharge; (c) proper site registration as a commercial pesticide mixing and loading site, if applicable; (d) cleanup actions meet approved plans; (e) cleanup costs are not covered by insurance; and (f) costs are reasonable and necessary.

In 2002-03, grant funding is budgeted at $3,738,600 SEG in a continuing appropriation from the ACCP fund. During the early years of the program, grant activity was lower than anticipated, resulting in a $2 million transfer from the ACCP fund to the general fund in the 1999-01 biennium and elimination of GPR funding for grants. Table 9 lists the program grant activity from inception through 2001-02.

Fee Reduction and Surcharge Holiday

Due to large balances in the fund, both the 1997-99 and 1999-01 biennial budget acts established temporary ACM fee reductions. ACM fees for commercial feed and fertilizer products were reduced from January 1, 1999 to December 31, 2002. Revenue losses from these ACM fee reductions were about $870,000 per fiscal year in 2000-01 and 2001-02. As the fee holiday has expired, fees have returned to their 1997-98 levels.

In addition, the 1997-99 biennial budget act temporarily suspended all ACCP surcharges and gave DATCP authority to reduce future ACCP surcharges by administrative rule as long as a $2 million to $5 million balance is maintained in the segregated cleanup fund. DATCP chose to extend the original fee holiday by administrative rule. The suspension of ACCP surcharges reduced revenues to the fund by about $2.5 million in 2000-01, and about $1 million in 2001-02. The ACCP fund began fiscal year 2002-03 with a $1.2 million balance. Under current administrative rules, surcharges are again being collected in 2002-03. Surcharge levels established by the Department can range between zero and the statutory maximum levels. DATCP has set the current surcharges at the statutory maximum levels as shown in Table 10.

Regulatory Authority for the Cleanup Program

DATCP is authorized to order any of the following actions for the cleanup of an agricultural chemical: (a) investigate a site to determine the extent and severity of contamination; (b) contain, re-

Table 9: Agrichemical Cleanup Grants by Site Type

	Commercial Sites			Non-Commercial Sites (primarily farms)		
	Grants			Grants		
Year	New	Follow-up*	Expenditures	New	Follow-up*	Expenditures
1994-95	18	0	$764,100	2	0	$11,700
1995-96	24	8	904,700	4	0	86,000
1996-97	27	16	1,265,100	1	0	69,400
1997-98	19	25	1,333,500	7	1	130,900
1998-99	24	24	2,805,000	4	1	70,100
1999-00	22	18	2,072,300	3	1	71,800
2000-01	36	27	3,913,700	2	1	50,300
2001-02	34	62	3,467,300	3	1	91,300
Total	204	180	$16,525,700	26	5	$581,500

*Follow-up grants are those monies given to previously appropriated sites for further reimbursements.

Table 10: Agricultural Chemical Fees

	ACM Fee*	ACCP Surcharge	2002-03 Fees
Fertilizer License	$30	$20	$50
Fertilizer Tonnage (per ton)	62¢	38¢	$1
Feed Tonnage	25¢		25¢
Restricted Use Pest Dealer License	$60	$40	$100
Pesticide Application Business License	$70	$55	$125
Pesticide Individual Application License	$40	$20	$60
Household Pesticide Registration			
• $0-25,000 sales	$265		$265
• $25,000-$75,000 sales	$750		$750
• >$75,000 sales$	$1,500		$1,500
Industrial Pesticide Registration			
• $0-25,000 sales	$315		$315
• $25,000-$75,000 sales	$860		$860
• >$75,000 sales$	$3,060		$3,060
Nonhousehold Pesticide Registration			
• $0-25,000 sales	$320	$5	$325
• $25,000-$75,000 sales	$890	$170	$1,060
• >$75,000 sales	$3,060 +0.2% sales	1.1% sales	$3,060 +1.3% sales

*Includes fees deposited to the ACM, ACCP, environmental, weights and measures and various research funds.

move, treat or monitor contaminated soils; and (c) transport, store, land apply or dispose of contaminated soils. DATCP actions must be in compliance with cleanup standards set in statutes and DNR administrative rules. DATCP and DNR signed a memorandum of understanding in August, 1994, to establish their respective responsibilities.

DNR is authorized to take corrective actions or issue orders related to agricultural chemical discharges if one of the following conditions apply: (a) if necessary, in an emergency to prevent or mitigate an imminent hazard to public health, safety or welfare or to the environment; (b) DATCP requests DNR to take an action or issue an order; (c) the Secretary of DNR approves the action or order in advance, after providing notice to DATCP; (d) DNR takes corrective action after a responsible party fails to comply with an order issued by DNR; or (e) the action or order is authorized under the DNR and DATCP memorandum of understanding.

Appendices

Four appendices provide additional information about contaminated land cleanup programs in Wisconsin. These include:

- Appendix I lists the Superfund sites in Wisconsin and shows the status of cleanup actions.
- Appendix II lists the state-funded response projects in Wisconsin where cleanup is funded by the segregated environmental fund.
- Appendix III lists the DNR brownfield site assessment grants awarded as of January 1, 2003.
- Appendix IV lists appropriations from the environmental management account of the environmental fund during 2001-03.

APPENDIX I

Superfund Site Status in Wisconsin (December, 2002)

Wisconsin Sites on EPA's National Priority List (NPL)	Municipality	County	Funding	Status
Ashland NSP*	Ashland	Ashland	SUPERFUND	RI/FS
Better Brite Chrome & Zinc*	De Pere	Brown	SUPERFUND	O&M
Pentawood Products	Daniels, Town	Burnett	SUPERFUND	RA
Schmalz Landfill	Harrison	Calumet	SUPERFUND	O&M
Hagen Farm	Stoughton	Dane	PRP	O&M
City Disposal Corp Landfill	Dunn, Town	Dane	PRP	O&M
Stoughton City Landfill	Stoughton	Dane	SUPERFUND	O&M
Madison Metro Sludge Lagoons	Madison	Dane	PRP	RA
Refuse Hideaway	Middleton	Dane	SUPERFUND	RD (O&M Groundwater)
Oconomowoc Electroplating Co.	Ashippun	Dodge	SUPERFUND	O&M
Hechimovich Landfill*	Williamston	Dodge	PRP	O&M
Eau Claire Municipal Well Field	Eau Claire	Eau Claire	SUPERFUND	O&M
National Presto Industries	Eau Claire	Eau Claire	PRP	O&M
City of Ripon Landfill*	Ripon	Fond du Lac	PRP	O&M
Algoma, City of, Landfill	Algoma	Kewaunee	PRP	O&M
Onalaska Municipal Landfill*	Onalaska	La Crosse	SUPERFUND	O&M
Lemberger Fly Ash Landfill	Whitelaw	Manitowoc	PRP	O&M
Lemberger Transport/Recycling	Whitelaw	Manitowoc	PRP	O&M
Mid-State Disposal Inc. Landfill	Cleveland	Marathon	PRP	O&M
Wausau, City of, Water Supply	Wausau	Marathon	PRP	O&M
Spickler Landfill	Spencer	Marathon	PRP	O&M
Fadrowski Drum Disposal Site	Franklin	Milwaukee	PRP	O&M
Moss-American (Kerr McGee Oil)	Milwaukee	Milwaukee	PRP	RD
Tomah Armory	Tomah	Monroe	PRP	RA Completed
Tomah Sanitary Landfill	Tomah	Monroe	PRP	RI/FS(O&M Groundwater)

APPENDIX I (continued)

Superfund Site Status in Wisconsin (December, 2002)

Wisconsin Sites on EPA's National Priority List (NPL)	Municipality	County	Funding	Status
N.W. Mauthe Co.	Appleton	Outagamie	SUPERFUND	O&M
Hunts Disposal/Caledonia Landfill	Caledonia	Racine	PRP	O&M
Janesville Ash Beds	Janesville	Rock	PRP	O&M
Janesville Old Landfill	Janesville	Rock	PRP	O&M
Wheeler Pit	Janesville	Rock	PRP	O&M
Sauk County Landfill*	Excelsior	Sauk	PRP	O&M
Kohler Co. Landfill*	Kohler	Sheboygan	PRP	O&M
Sheboygan River & Harbor	Sheboygan	Sheboygan	PRP	RD
Scrap Processing Inc.-Potaczek	Medford	Taylor	SUPERFUND	RA Completed
Delevan Municipal Well No. 4*	Delevan	Walworth	PRP	RA Completed
Waste Management of WI-Brookfield*	Brookfield	Waukesha	PRP	O&M
Lauer I Sanitary Landfill*	Menom. Falls	Waukesha	PRP	O&M
Master Disposal Service Landfill	Brookfield	Waukesha	PRP	O&M
Muskego Sanitary Landfill	Muskego	Waukesha	PRP	O&M

PRP—Potential Responsible Party; RI/FS--Remedial Investigation/Feasibility Study; RD--Remedial Design; RA—Remedial Action; O&M—Operation and Maintenance.
RCRA Corr. Action - cleanup at a hazardous waste facility regulated by the federal Resource Conservation and Recovery Act rather than Superfund.
*Designates DNR lead; all others, EPA lead.

APPENDIX II

State-Funded Response Actions Funded by the Wisconsin Environmental Fund as of June, 2002

Ashland
Ashland NSP Coal Gasification
Shroeder Lumber/Kreher Park

Barron
Lemler Landfill

Bayfield
Barksdale Dump

Brown
H&R Landfill
Better Brite Chrome Shop
Better Brite Zinc Shop
Scray's Hill

Burnett
Piotrowski
Village of Webster Water Supply

Calumet
Abhold's Garage
City of Chilton Well #5
Schmalz Landfill

Chippewa
North Eau Claire
Better Brite Chippewa Falls
Rihn Oil

Clark
Granton
Neillsville Foundry

Columbia
Ken La Grange

Crawford
Bell Center

Dane
Deerfield
Refuse Hideaway Landfill
Stoughton State Superfund
New Pinery Road
Rimrock Road Well
Watts/Seybold Road
McFarland Terminal Drive
Rimrock Road Volatile Organic Compounds
Town of Madison-Fish Hatchery
Madison First Street Garage
Madison Municipal Well #3

Dodge
Oconomowoc Electroplating
Davy Creek
Mayville Iron & Coke

Door
Door County Lead Arsenic Mixing Stations

Douglas
Solon Springs
Superior Wood Systems
Newton Creek

Eau Claire
City of Augusta
Eastenson Salvage
Eau Claire Municipal Well Field
Eau Claire Lead Site

Fond du Lac
Waupun Public Water Supply
Fond du Lac #12
QuicFrez
Otto Stiedaman Property

Grant
Ellenboro Store

Green
Leck Property

Iowa
Dodgeville Water Supply
Mineral Point Roaster Piles

Jackson
Home Oil
Melrose Well #3
Village of Merrillan Water Supply

Juneau
Hustler Hardware

Kenosha
Frost Manufacturing

Kewaunee
Kewaunee Marsh

La Crosse
Holmen I and Holmen II
Lacrosse Water Supply
Onalaska Municipal Landfill
Tarco South, Onalaska
National Auto Wrecking

Lafayette
New Diggings

Langlade
Former Langlade Oil Company

Lincoln
Tomahawk Tissues
Koch Dry Cleaners

Manitowoc
Kasson Cheese
Lemberger Transport and Recycling
Two Rivers Petroleum
Manitowoc Two Rivers Trichloroethylene

Marathon
Town of Weston-Mesker #2 Well
Gorski Landfill
Town of Stettin
Town of Weston
Holtz-Krause Landfill (mixed funding)
City of Wausau/Marathon Electric Landfill
Mid-State Disposal Landfill
Standard Container
Weisenberger Tie and Lumber
Murray Machine
Halder Water Supply
Elderon Water Supply
Abbotsford Perchloroethylene
Village of Halder
Unity Auto Mart

Marinette
Dunbar
American Graphics/FLS Graphics
Leo Tucker Salvage Yard
Fairgrounds Road/Cedar Street
Wausaukee Well #2

APPENDIX II (continued)

State-Funded Response Actions Funded by the Wisconsin Environmental Fund as of June, 2002

Milwaukee
Blue Hole Landfill
3033 W. Walnut; Hydro-platers Lubricant, Inc.
BOC Property
Betz Trust
Custom Plating
A-1 Bumper
Presidio
Mobile Blasting Off-Site Investigation
Mobile Blasting Remediation

Monroe
Ashwander Site
Wittig Oil
Tomah Well #5

Oconto
Lakewood Water Supply
New Lindwood
Peterson Petroleum

Oneida
Minocqua Water Supply
Rhinelander Landfill
Rhinelander Lincoln Street
Herrick Well

Outagamie
Wanglin Barrel
Wisconsin Chromium
Brad Porter Well
Midwest Plating
Kaphingst Property

Ozaukee
Cedarburg Water Supply
Grafton Water Supply
Cedar Creek

Polk
Dan Roth Property
Thompson Machine

Portage
Amherst Perchloroethylene

Price
Flambeau Garage

Racine
Tappa Property
City of Racine Brownfields Pilot
Golden Books/Clint's Auto Salvage

Rock
Dwyer Fire
Edgerton Sand and Gravel
Rock Paint and Chemical
Riverside Plating
Borgerding

St. Croix
Junker Landfill
Trout Brook
Town of Warren

Sawyer
Price Rite Soil Vapor Extraction
Village of Couderay Site

Sheboygan
Sheboygan Manufacturer Gas/Camp Marina

Taylor
Doberstein
Village of Donald Well

Trempealeau
Village of Arcadia Water Supply

Vernon
Viroqua Well
Westby Drycleaners

Vilas
Boulder Junction

Walworth
Former Getzen Site

Washburn
Beaver Brook Water Supply Phase I & II
Springbrook

Washington
West Bend Water Supply

Waukesha
Barrett Landfill
Delafield Sanitary Transfer

Waupaca
Waupaca Well #4

Waushara
Union State Bank Wautoma

Winnebago
Fox River Risk Assessment
Oshkosh North
Smedena
Panzen Transfer
Leo's Service
Shilobrit Cleaners, Oshkosh
Shilobrit Cleaners, Neenah
American Quality Fibers

Wood
Luchterhand Disposal
Pittsville Well

No. Central District
Clandestine Methcathinode (CAT) Labs

Statewide
Statewide Pesticide Study
Statewide Soil Standard Criteria Modeling
Statewide Natural Attenuation Study
Statewide Clean Soils Sites

APPENDIX III

DNR Brownfield Site Assessment Grant Awards
As of January 1, 2003

County	Recipient	Number of Grants	Grant Amount
Ashland	Ashland, City	3	$90,000
Barron	Barron, County	1	29,150
Brown	Ashwaubenon, Village	1	98,490
Brown	Ledgeview, Town	1	8,975
Chippewa	Chippewa Falls, City	2	60,000
Clark	Loyal, City	1	16,000
Columbia	Columbus, City	1	29,000
Crawford	Crawford, County	1	75,000
Dane	DeForest, Village RA	1	20,224
Dane	Sun Prairie, City	1	30,000
Dane	Waunakee, Village	1	100,000
Dodge	Mayville, City	1	30,000
Douglas	Douglas, County	1	30,000
Douglas	Superior, City	2	27,500
Dunn	Menomonie, City	2	27,800
Fond du Lac	Fond du Lac, City	1	100,000
Fond du Lac	Fond du Lac, County	1	25,900
Fond du Lac	Lamartine, Town	1	30,000
Forest	Crandon, City	1	25,250
Grant	Platteville, City	3	54,160
Iowa	Iowa, County	1	29,669
Jefferson	Jefferson, City	1	30,000
Manitowoc	Mishicot, Village	1	14,157
Marathon	Wausau, City	2	130,000
Marinette	Marinette, County	1	30,000
Marquette	Shields, Town	1	30,000
Milwaukee	Cudahy, City	4	94,760
Milwaukee	Greenfield, City	2	57,450
Milwaukee	Milwaukee, City RA	17	430,773
Milwaukee	South Milwaukee CDA	1	30,000
Milwaukee	West Allis, City	3	209,263
Milwaukee	Whitefish Bay, Village	2	50,000
Oconto	Mountain, Town	1	20,000
Oconto	Oconto, City	1	30,837
Oconto	Suring, Village	1	30,000

APPENDIX III (continued)

DNR Brownfield Site Assessment Grant Awards
As of January 1, 2003

County	Recipient	Number of Grants	Grant Amount
Oneida	Oneida, County	1	$30,000
Outagamie	Appleton, City RA	1	100,000
Outagamie	Kaukauna, City	1	14,000
Outagamie	Little Chute, Village	1	7,800
Outagamie	Outagamie, County	2	40,987
Outagamie	Seymour, City	1	27,493
Ozaukee	Fredonia, Village	1	10,000
Ozaukee	Ozaukee, County	1	30,000
Polk	Clayton, Village	1	29,375
Polk	Dresser, Village	1	26,300
Rock	Edgerton, City	1	21,670
Rock	Evansville, City	1	30,000
Rusk	Rusk, County	1	16,400
Sauk	Baraboo, City	1	30,000
Sawyer	Sawyer, County	1	26,600
Sheboygan	Sheboygan, City RA	4	177,928
Vernon	Vernon, County	2	15,304
Walworth	Delavan, City	5	119,420
Walworth	Geneva, Town	1	24,684
Waukesha	Elm Grove, Village	1	5,681
Waukesha	New Berlin, City	1	10,000
Waupaca	Waupaca, County	1	30,000
Winnebago	Menasha, City	1	30,000
Winnebago	Oshkosh, City	2	92,000
Wood	Marshfield, City	1	30,000
Wood	Pittsville, City	1	20,000
Wood	Wood, County	1	30,000
		103	$3,150,000

RA = Redevelopment Authority
CDA = Community Development Authority

APPENDIX IV

Appropriations From the Environmental Management Account, 2001-03

			2001-02	2002-03	2002-03 Positions
Natural Resources					
370	(2)(du)	Solid waste management – site specific remediation	$0	$0	
370	(2)(dv)	Solid waste management -- environmental repair; spills; abandoned containers *	3,321,300	3,321,300	
370	(2)(fq)	Indemnification agreements	0	0	
370	(2)(mq)	General program operations (Air and Waste)	4,204,700	4,204,700	59.00
370	(3)(mq)	General program operations (Enforcement and Science)	1,131,000	1,113,900	11.00
370	(4)(ar)	Water resources -- groundwater management	125,000	125,000	
370	(4)(au)	Cooperative remedial action; contributions	0	0	
370	(4)(av)	Cooperative remedial action; interest on contributions	0	0	
370	(4)(mq)	General program operations (Water)	2,374,400	2,328,100	22.00
370	(6)(bs)	Environmental aids -- household hazardous waste	150,000	150,000	
370	(6)(cr)	Environmental aids -- compensation for well contamination	400,000	400,000	
370	(6)(er)	Environmental aids -- sustainable urban development zones	525,000	0	
370	(6)(et)	Environmental aids -- brownfield site assessment	1,700,000	1,700,000	
370	(6)(eu)	Environmental aids – brownfields green space grants	1,000,000	0	
371	(7)(bq)	Principal repayment and interest – remedial action	2,400,000	2,700,000	
370	(7)(er)	Administrative facilities -- principal repayment and interest	60,000	135,500	
370	(8)(mv)	General program operations (Administration and Technology)	1,643,600	1,596,300	3.44
370	(9)(mv)	General program operations (Customer Assistance and External Relations)	563,200	555,200	8.10
Health and Social Services					
435	(1)(q)	Groundwater and air quality standards	386,600	386,700	3.50
Military Affairs					
465	(3)(t)	Emergency response training -- environmental fund	10,500	10,500	
Commerce					
143	(1)(qm)	Brownfields grant program; environmental fund	7,000,000	7,000,000	
University of Wisconsin System					
285	(1)(r)	Environmental education; environmental assessments	30,000	30,000	
Total SEG Environmental Management Account Appropriations			$27,025,300	$25,757,200	107.04

* 2001 Acts 16 and 109 directed that $371,600 be transferred from the balance of this appropriation to the general fund in 2001-02 and $437,200 be transferred in 2002-03.