

# *Solid Waste Recycling and Waste Reduction*



*Informational  
Paper 64*

*Wisconsin Legislative Fiscal Bureau  
January, 2003*

# *Solid Waste Recycling and Waste Reduction*



*Prepared by  
Kendra Bonderud*

*Wisconsin Legislative Fiscal Bureau  
One East Main, Suite 301  
Madison, WI 53703*

## TABLE OF CONTENTS

Introduction.....	1
Chapter 1: Solid Waste and Recycling Program Requirements .....	2
Solid Waste Management Policy.....	2
Bans on Landfilling and Incineration.....	2
Local Government Responsible Units.....	4
Chapter 2: State-Funded Recycling Financial Assistance .....	10
Municipal and County Recycling Grant Program .....	10
Recycling Efficiency Incentive Grant Program.....	20
Recycling Market Development Board .....	22
Waste Reduction and Recycling Demonstration Grant Program .....	24
Segregated Recycling Fund.....	25
Recycling Surcharge .....	26
Recycling Tipping Fee.....	28
Chapter 3: Other Recycling Activities.....	29
Council on Recycling.....	29
Department of Natural Resources Education and Technical Assistance Responsibilities ...	29
Other DNR Activities.....	31
University of Wisconsin System Activities.....	33
Department of Administration Activities.....	34
Department of Transportation Activities.....	35
Department of Agriculture, Trade and Consumer Protection Activities.....	35
Department of Commerce Activities.....	37
Department of Corrections Activities.....	37
Tax Exemptions .....	37
2001 Legislative Audit of Recycling Programs.....	38
Appendices .....	40
Appendix I: Major Recycling and Waste Reduction Programs: Appropriations.....	41
Appendix II: Recycling Fund Cumulative Revenues and Expenditures, 1990-91 Through 2001-02 .....	42
Appendix III: State Solid Waste Reduction, Reuse, Recycling, Composting and Resource Recovery Policies .....	43
Appendix IV: Exceptions to the 1991, 1993 and 1995 Landfill and Incineration Bans .....	44
Appendix V: Twelve Required Components of an Effective Recycling Program.....	46
Appendix VI: Variances from Effective Program Criteria .....	47
Appendix VII: Summary of Major Out-of-State Waste Legal Provisions .....	48





## *Solid Waste Recycling and Waste Reduction*

---

Concerns about landfill capacity and the environmental impacts of solid waste disposal, in combination with increasing interest in recycling, brought attention to solid waste management in Wisconsin and served as the impetus for implementation of several state initiatives to more effectively manage this waste.

The Legislature enacted 1989 Wisconsin Act 335, a statewide regulatory and financial assistance program aimed at encouraging, and in some instances requiring, solid waste recycling and reduction. Subsequent legislation modified the funding sources and appropriations for state recycling programs.

The purpose of this paper is to describe major, statewide solid waste recycling and waste reduction regulations, financial assistance programs, and educational and technical assistance initiatives currently in place in Wisconsin. Most of the solid waste management and recycling regulations and financial and technical assistance are administered by the Department of Natural Resources (DNR). DNR administers the municipal and county recycling grant program that provides financial assistance to responsible units of local government for

eligible recycling expenses. The grant program is providing \$24.5 million to responsible units in each of calendar years 2002 and 2003. In 2002-03, \$1.9 million is provided for a new recycling efficiency incentive grant program. Other recycling provisions are administered by the Department of Commerce, University of Wisconsin Systems, Department of Transportation and Department of Agriculture, Trade and Consumer Protection.

The paper also describes the segregated recycling fund, from which appropriations are made for state recycling programs, and the recycling surcharge and recycling tipping fee, which provide revenue to the recycling fund. Appendix I provides a summary table of funding and positions during 2001-03 for the programs discussed in the following sections. Appendix II provides a summary table of recycling fund cumulative revenues and expenditures from 1990-91 through 2001-02. Several other appendices discuss various aspects of recycling program provisions. While this paper focuses on recycling financial assistance and regulatory programs, other programs and laws addressing recycling and recyclable materials market development are also briefly discussed.

*SOLID WASTE AND RECYCLING PROGRAM REQUIREMENTS*

---

**Solid Waste Management Policy**

---

The state's solid waste management policy, established in s. 287.05 of the statutes, declares that maximum solid waste reduction, reuse, recycling, composting and resource recovery is in the best interest of the state in order to protect public health, to protect the quality of the natural environment and to conserve resources and energy. The policy also states that implementation of solid waste reduction, reuse, recycling, composting and resource recovery systems and operations requires the involvement and cooperation of individuals, state and local governments, schools, private organizations and businesses. The statutes specify that state government should achieve this involvement and cooperation by relying to the maximum extent feasible on technical and financial assistance, education and managerial practices and that necessary regulations should be developed with maximum flexibility. These policies are summarized in Appendix III.

The state policy establishes a hierarchy of solid waste management options, ranked in the following order of preference: (1) reduction of the amount of solid waste generated; (2) reuse of solid waste; (3) recycling of solid waste; (4) composting of solid waste; (5) recovery of energy from solid waste; (6) land disposal of solid waste; and (7) the burning of solid waste without energy recovery.

---

**Bans on Landfilling and Incineration**

---

State law prohibits the landfilling and incineration of specified materials after certain dates as a means of encouraging their recycling or reducing their generation. Bans of specific materials went into effect on January 1 of 1991, 1993 and 1995. Certain materials are exempted from the ban.

In the recycling law, the term "solid waste disposal facility" includes several types of facilities, but is most commonly synonymous with the more familiar "landfill." A "solid waste treatment facility" which burns solid waste is generally synonymous with "incinerator." For the purposes of this paper, "landfill" and "incinerator" will be used unless a more extensive definition is necessary for clarity.

**1991 Bans**

As of January 1, 1991, no person may dispose of lead acid batteries, major appliances or waste oil in a solid waste disposal facility or landfill. Major appliances include residential or commercial air conditioners, clothes dryers, clothes washers, dishwashers, freezers, microwave ovens, ovens, refrigerators, stoves, furnaces, boilers, dehumidifiers and water heaters. The ban also prohibits any person from burning lead acid batteries or major appliances in an incinerator, and prohibits incinerating waste oil without energy recovery. An exception to the ban is provided for any person who disposes of a microwave oven in a landfill if the capacitor has been removed and disposed of in accordance with

state regulations regarding the disposal of capacitors containing PCBs (polychlorinated biphenyls).

### **1993 Bans**

As of January 1, 1993, no person may dispose of yard waste (yard and garden debris and brush) in a landfill or in any other solid waste disposal facility, except a land spreading facility approved in accordance with solid waste laws. A "land spreading facility" is defined as a solid waste disposal facility in which solid waste is placed in thin layers onto the surface of the land or incorporated into the surface layers of the soil. The ban also prohibits burning yard waste without energy recovery. The Department of Natural Resources (DNR) is authorized to grant a waiver to this prohibition to allow the burning of brush or other clean, woody vegetative material that is no greater than six inches in diameter at wood burning facilities that are licensed or permitted by DNR. The statutes specify that DNR's policy that establishes conditions for a waiver to allow the burning of brush or other woody material is not a rule.

### **1995 Bans**

As of January 1, 1995, no person may landfill, burn with or without energy recovery, or convert into fuel, any of the following waste materials: (a) aluminum containers; (b) corrugated paper or other container board; (c) foam polystyrene packaging (packaging made primarily from foam polystyrene that either: (1) is designed for serving food or beverages; (2) consists of loose particles intended to fill empty space and cushion the packaged article; or (3) consists of rigid materials shaped to hold and cushion a packaged article); (d) glass containers; (e) magazines or other material printed on similar paper; (f) newspapers or other material printed on newsprint; (g) office paper; (h) plastic containers (plastics #1 through #7 required to be labeled under the plastic container labeling

law); (i) steel containers; and (j) containers for carbonated or malt beverages that are primarily made from a combination of steel and aluminum (known as "bi-metal" cans). In addition, waste tires cannot be landfilled or burned without energy recovery, but can be burned with energy recovery.

### **Exceptions to the Bans**

Exceptions to the bans are made for: (a) incidental amounts of the banned materials generated in a region that has an effective recycling program; (b) certain materials incinerated in a grandfathered incinerator; (c) incinerators that burn solid waste as a supplemental fuel; (d) certain medical waste; (e) unexpected emergency conditions; (f) certain woody materials burned in approved wood burning facilities; (g) beneficial reuse of a material within a landfill; (h) contaminated materials; and (i) certain plastics if recycling is not feasible. A more detailed discussion of these exceptions is contained in Appendix IV. (Incidental amounts refers to banned materials that are not separated for recycling within an effective program, including items the consumer fails to separate, and nonrecyclable items, such as newspapers used for cleaning windows, plastic milk containers used for waste oil and broken glass containers.)

### **Enforcement of Bans**

DNR is authorized to issue a citation to any person who violates any of the bans. The forfeitures that may be collected through a citation for violation of these requirements are \$50 for the first violation, \$200 for the second and \$2,000 for the third or subsequent violation. The Attorney General is authorized to enforce the 1995 bans by seeking injunctive relief against any person who violates them on or after January 1, 1995. Monetary penalties for violations of the 1993 and 1995 bans were imposed beginning two years after the bans on the landfilling and incineration of the recyclable materials took effect. DNR has issued a few

citations to haulers for landfilling of recyclables mixed with solid waste, has met with other haulers to review the requirements of the landfilling bans, and has responded to citizen inquiries about possible cases of landfilling of mixed recyclables and trash by haulers.

In addition to state enforcement, if a responsible unit has an "effective recycling program," it must adopt an ordinance to enforce a prohibition on the landfilling or burning of materials subject to the 1995 bans that are separated for recycling. The responsible unit may impose forfeitures for the violation of its recycling ordinance. DNR has worked with responsible units on a few cases where the responsible unit took enforcement action against a waste hauler that was collecting separated recyclables with solid waste and landfilling all of the materials.

DNR is authorized 1.0 SEG position from the recycling fund in 2002-03 for recycling enforcement that is provided by allocating a portion of the time of environmental wardens throughout the state. DNR regional recycling specialists funded from the recycling fund also work with enforcement. DNR's implementation of the recycling law emphasizes achieving voluntary compliance through technical and financial assistance rather than enforced compliance through the imposition of penalties or injunctions. DNR is working with responsible units to identify violations of local recycling ordinances by waste haulers or landfills.

DNR also is authorized to: (a) hold hearings and compel the attendance of witnesses in the production of evidence related to the administration of the statewide recycling laws; and (b) enter and inspect property at which a solid waste facility is located, or is being constructed or installed, or inspect any record relating to solid waste management at any reasonable time for the purpose of ascertaining the status of compliance with recycling law.

---

## Local Government Responsible Units

---

The statutes establish several responsibilities for local government related to recycling. In general, the local units of government responsible for implementing state-mandated recycling programs are termed "responsible units." Under the recycling law definition, the responsible unit for a geographic area is the municipality (city, village or town) unless a county takes specific action to create a responsible unit. Currently, every municipality in the state is included within one of 1,059 responsible units. Almost all responsible units (1,018 of 1,059), representing 99% of the state's population, receive state-funded grants for a portion of the costs of operating the local recycling programs.

A county may become a responsible unit upon its board adopting a resolution accepting this designation. A municipality located in the county may retain its own status as a responsible unit if the municipality adopts a resolution to do so within 90 days of the county board's adoption of its resolution. There are 34 counties that are responsible units for all or some of the communities within their boundaries. The governing body of any responsible unit may designate, by contract, another unit of government to be the responsible unit, if it has that unit of government's consent. These multiple-municipality responsible units consist of counties, solid waste management commissions or two or more neighboring municipalities. Indian tribes may also become responsible units.

## Duties and Powers of Responsible Units

Each responsible unit must develop and implement a program to manage the solid waste generated within its region in compliance with the 1991, 1993 and 1995 bans and the state's solid waste management priorities. The allowable ways this may be done are: (a) manage materials subject to



the 1995 bans in an "effective recycling program" and complying with the 1991 and 1993 bans; (b) burn combustible materials subject to the 1995 bans in a "grandfathered" incinerator (described in the section on exceptions to the bans), managing the non-combustibles in an effective recycling program and complying with the 1991 and 1993 bans; (c) ship waste which contains materials subject to the 1991, 1993 and 1995 bans, out of state; or (d) a combination of a through c. Responsible units are authorized to designate one or more persons to implement specific components of the solid waste management program and are authorized to adopt an ordinance to enforce this program.

Unpaid recycling fees are a lien on the property against which the fees are levied and are to be collected in the same manner as delinquent property taxes. Recycling fees are defined as fees for services provided by responsible units, or other parties, including private parties, that relate to the responsible unit's duties to operate a solid waste management program.

No officer, official, agent or employee of a responsible unit may be held liable for civil damages as a result of good faith actions taken by that person within the scope of that person's duties relating to the responsible unit's recycling program or recycling site or facility.

Any responsible unit that accepts funding from the municipal and county recycling grant program (or a county or municipality within such a responsible unit) is prohibited from regulating the sale or distribution of packaging for a purpose relating to its disposal unless that restriction is consistent with current law relating to marketing and trade practices or solid waste regulation. For example, a municipality that accepts grant funding may not ban retail sales of products packaged in a certain type of plastic in order to reduce the disposal problems associated with that plastic. The unit of government also may not impose a tax or fee on the sale or distribution of the packaging for a

purpose related to its disposal. Further, the law states it is the intent of the Legislature not to impose, or to authorize such a unit of government to impose, such a tax or fee.

### **Effective Recycling Programs**

A responsible unit's compliance with its recycling responsibilities relating to the 1995 landfill and incineration bans is determined by whether it is judged to have an "effective recycling program." Effective recycling program criteria were established in 1989 Act 335 and are contained in DNR administrative rule NR 544.

The designation of an effective recycling program is significant because, beginning in 1995, it determined a local government's ability to landfill or incinerate certain materials and its eligibility for state recycling grant funds. Materials subject to the 1995 ban may generally only be landfilled or incinerated if they are the "residuals" (in this context, materials remaining after other like materials have been separated for recycling) from an effective recycling program, or qualify under one of the other exceptions.

A responsible unit may request that DNR conduct a review to determine if its solid waste management program constitutes an effective recycling program. The DNR has 90 days in which to review documentation submitted to it and to determine whether a program is "effective." All 1,059 responsible units have received approval as having effective recycling programs. The approval is valid as long as the local program is operated in a manner that maintains the required components of an effective recycling program.

Local programs are required to submit an annual report to DNR that outlines their effective recycling program. DNR field staff review the reports and perform program evaluations to determine the compliance of the responsible unit with the effective program requirements. Between

1996 and 2000, nine responsible units were placed on probation due to noncompliance issues or failure to submit their annual recycling report to DNR. They corrected the problems in their recycling program and were returned to effective program status.

Since January 1, 2001, one responsible unit (Forest County Potowatomi Tribe) has been placed on probation for failing to separate recyclables from solid waste during the collection process, for not maintaining the recyclables collected in marketable condition, and for not meeting the collection standards for pounds per person. One responsible unit (Town of Port Washington in Ozaukee County) received a letter of warning that it would be placed on probation if it did not submit the required annual report within five days, and then the report was submitted within the required deadline. One responsible unit (Town of Delavan in Walworth County) was placed on probation in August, 2002, for failure to submit the annual report that was due in April, 2001, and the probationary status was removed in the same month after the report was received. All other responsible units are in compliance with effective program requirements.

### Required Components of an Effective Program

An effective recycling program is required to have thirteen specific components. A description of the thirteen statutory components is included in Appendix V. Administrative rule NR 544 implements these requirements by requiring responsible units to have the following:

- An ordinance to require recycling of the banned materials in all residences and non-residential facilities and properties;
- Public education and information about how to recycle, reduce and reuse waste;
- A method for collecting, processing and marketing of recyclables from single-family and

two- to four-unit residences;

- Municipalities with populations of 5,000 or greater must provide, at least monthly, curbside collection from single-family and two- to four-unit residences for at least newspaper, glass, aluminum and steel containers, plastic containers made of PETE (polyethylene terephthalate or #1 plastic) or HDPE (high density polyethylene or #2 plastic), and either corrugated paper or magazines, and must provide drop off collection for materials that are not collected curbside. Municipalities with populations of less than 5,000 must provide either curbside or drop-off collection from single-family and two- to four-unit residences;

- Beginning in 1997, meet specific per capita collection standards for eight recyclable materials, as shown in Table 1 (The amounts specified for plastic containers that are not made out of PETE or HDPE and foam polystyrene packaging are subtracted from the requirement. DNR is considering review the standards but has not made changes since the 1997 implementation.); and

**Table 1: NR 544 Standards for Collection of Recyclables: Pounds Per Person Per Year\***

Type of Recyclable	Rural Municipalities**	Other Municipalities
Newspaper	36.0	47.0
Corrugated Paper	6.0	7.0
Magazines	7.0	9.0
Aluminum Containers	1.4	1.8
Steel and Bi-Metal Containers	7.0	9.0
Plastic Containers	4.0	5.0
Glass Containers	22.0	29.0
Foam Polystyrene Packaging	<u>0.3</u>	<u>0.4</u>
TOTAL	83.7	108.2

\* Beginning in 1999, DNR modified the annual report form submitted by responsible units to allow a responsible unit that does not meet the collection standards to request an exemption from the standards and to be granted the exemption if the DNR does not act within 90 days.

\*\* Rural municipalities are those with a permanent population density of 70 persons per square mile or fewer. Municipalities that do not meet that population criterion fall into the other category.

- Equipment and staff necessary to operate and enforce the program.

The recycling ordinance adopted by any responsible unit with an effective recycling program must include the following requirements:

- Occupants of single-family and two- to four-unit residences, multiple-family dwellings and non-residential facilities and properties must either separate for recycling the banned materials or send the materials to a licensed processing facility that recovers materials for recycling;
- Owners of multi-family dwellings and non-residential facilities and properties must provide recycling containers, information for users and provide for collection of recyclable materials;
- Recyclable materials that are subject to the statewide bans on landfilling or incineration must be prohibited from such disposal; and
- Enforcement must include penalties consistent with statewide enforcement provisions.

### **Implementation of Effective Recycling Programs**

The structure of local recycling programs varies. Responsible units generally collect recyclable materials through one of two methods. Curbside collection is the collection of materials that are set out at the curb of the residence where they were generated. Drop-off collection is the collection of materials at centralized locations where people who generate the recyclables deliver or "drop-off" the materials.

In 2001, 55% of the state's population lived in responsible units that had curbside collection programs, 36% lived in responsible units with curbside and/or drop-off collection and 9% lived in responsible units where drop-off collection was available to residents. Less than 1% of population lived in responsible units that did not report their

program type, but DNR estimates that the residents are likely served by drop-off programs. Responsible units with populations over 10,000 relied primarily on curbside collection or a combination of curbside and drop-off collection. Responsible units that relied primarily on drop-off collection were primarily those with populations of less than 2,500. Almost 57% of the responsible units with populations less than 5,000 had curbside collection available to at least some of their residents.

Responsible units reported to DNR that they collected a total of 726,013 tons of recyclable materials from residences in 2001, as compared with 763,604 tons in 1999. More than 55% of recyclable materials collected in 2001 was materials subject to the 1995 bans and 36% was yard waste subject to the 1993 bans. Residential recycling programs collected an average of 268 pounds per capita in 2001 (an increase from 244 pounds per capita in 1995 and a decrease from 287 pounds per capita in 1999), including 148 pounds per capita of the 1995 banned materials (an increase from 141 pounds per capita in 1995 and a slight decrease from 149 pounds per capita in 1999).

Franklin Associates completed a study of recyclable materials for DNR using 2000 solid waste tonnage data. The study estimated that collected recyclable materials represented a statewide average of 33% of municipal solid waste generated in 2000 (residential and commercial solid waste). As part of the study of 2000 data, Franklin Associates revised data for an earlier 1995 study and estimated that collected recyclable materials represented a statewide average of 34% of municipal solid waste generated in 1995. The actual recycling rates vary among municipalities.

### **Exceptions, Variances and Waivers to the Effective Program Criteria**

DNR may grant a variance to a specific responsible unit from certain effective program

criteria for one or more of the materials subject to the 1995 landfill and incinerations bans. DNR may grant the variance to a specific responsible unit if a cost of selling processed material exceeds certain criteria. A description of the conditions under which a variance may be granted is included in Appendix VI.

There are certain exceptions to the 1995 bans which apply to effective recycling programs. These include exceptions for materials in regions with a grandfathered incinerator, incinerators that burn solid waste as a supplemental fuel, certain medical waste, unexpected emergency conditions, beneficial reuse of a material within a landfill, contaminated materials and certain plastics (foam polystyrene packaging and plastic containers other than PETE or HDPE) if recycling is not feasible. Appendix IV describes these situations. Issuance of variances, waivers or conditional waiver eliminates for effective recycling programs the requirement to separate those materials, or the prohibition on disposal or incineration of those materials, or both.

In October, 1996, DNR issued a waiver to the collection and disposal requirements for #3 through #7 plastic containers and polystyrene foam packaging, based on a departmental study that indicated that it is not feasible or practical to continue collecting these materials under current market conditions. The waiver will continue until one year after DNR determines that markets are available for these materials.

#### **Pilot Program for Alternative Compliance With Effective Program Requirement**

In 2001 Act 16, a pilot program was created to offer up to nine responsible units an alternative method of complying with the effective recycling program requirements of materials to be recycled by allowing them to select materials to be recycled instead of the materials subject to the 1995 landfill and incineration bans. Participation in the program is voluntary. DNR is required to select three responsible units with a population of less than

5,000, three responsible units with a population of at least 5,000 but less than 25,000, and three responsible units with a population of at least 25,000 to participate in the pilot program.

DNR is required to promulgate administrative rules for the program that do all of the following: (a) set goals for materials to be recycled as a percentage of solid waste generated in the geographic area served by the responsible unit; (b) establish a list of recyclable materials that could be collected for recycling by responsible units, including materials currently subject to the 1995 landfill bans and other recyclable materials; (c) specify a procedure for a responsible unit to identify the materials that it will require to be separated for recycling under its recycling program; and (d) specify a procedure to be used by DNR to determine whether a responsible unit has achieved the recycled materials percentage goals. The pilot program ends on December 31, 2005.

The pilot program was drafted as amendments to administrative rule NR 544. The Legislature has finished review of the rule, and the rule will be effective by approximately February 1, 2003. Applications for participation in the program are due to DNR by March 1, 2003. Responsible unit applicants are required to identify materials to be recycled from at least four of the seven categories listed in Table 2, and at least nine of the materials listed. Applicants are also required to submit: (a) a market plan for any new materials the responsible unit proposes to recycle; (b) the baseline recycling rate (the percent of materials collected for recycling in a base period before implementation of the pilot program); (c) the parties affected by participation in the pilot program (such as providers of collection services, marketing services and solid waste disposal facilities); (d) a description of how the responsible unit will prevent recyclable materials from being disposed of in solid waste generated by other responsible units; and (e) an explanation of how the responsible unit will make any necessary changes to its local recycling ordinance. DNR will select nine responsible units

**Table 2: Pilot Program for Alternative Compliance -- Materials That May Be Collected by Participating Responsible Units**

Category	Material
Paper	Corrugated paper Newspaper Magazines Office Paper Residential mixed paper
Organics	Food waste Wood pallets
Metal	Aluminum containers Steel and bi-metal containers Scrap metals
Glass	Glass containers
Plastic	Plastic containers with #1 and #2 resins Plastic containers with #3 - #7 resins Plastic film (LDPE) Polystyrene
Special Wastes	Nickel-cadmium batteries Mercury thermostats Dental amalgam Televisions Computers Other electronic appliances Fluorescent/HID lamps Mercury thermometers Antifreeze (automobile & other liquids)
Other	Waste tires Latex paint Carpet Textiles Clean construction & demolition waste (C&D)

that best meet the program criteria. Responsible units will be required to submit an annual report to DNR that demonstrates compliance with the pilot program requirements.

### Out-of-State Waste

1989 Act 335 and 1997 Act 27 established requirements for governmental units located outside Wisconsin to receive approval as effective recycling programs in order to dispose of solid waste in Wisconsin. Several of these provisions were found to be unconstitutional by federal courts. Provisions related to out-of-state waste are described in Appendix VII.

STATE-FUNDED RECYCLING FINANCIAL ASSISTANCE

State law includes several state-funded programs that provide financial assistance to local governments and businesses for solid waste recycling and waste reduction purposes. These programs are funded from the segregated recycling fund. The revenue sources for this fund include a recycling surcharge and a recycling tipping fee that are described in the section of this paper titled "Funding for Recycling." The recycling fund also funds costs of administering these programs and of administering and enforcing many of the recycling regulations discussed in other sections of this paper. Appendix I lists recycling financial assistance program costs and administrative, regulatory and enforcement costs that are funded from the recycling fund.

required to distribute grant awards totaling \$24,500,000 for calendar year 2002 (\$19,500,000 by June 1, 2002, from the 2001-02 appropriation, and \$5,000,000 by December 1, 2002, from the 2002-03 appropriation) and totaling \$24,500,000 for calendar year 2003 by June 1, 2003, from the remaining 2002-03 appropriation. Ongoing base funding for years after 2002-03 would be \$29,500,000, and the grants would be distributed in one payment by June 1 of the grant calendar year. Actual appropriation levels in years after 2002-03 will be established through the state budget process. Annual funding amounts are shown in Table 3.

---

**Municipal and County Recycling Grant Program**

---

The municipal and county recycling grant program was created in 1989 Act 335 to provide financial assistance to responsible units for eligible recycling expenses incurred from July 1, 1990, through calendar year 1999. 1997 Act 27 increased the amount of grant funding for 1999 from the \$17,000,000 specified in 1989 Act 335 to \$24,000,000 and extended the grant program through the year 2000, with \$24,000,000 in grant funding. 1999 Act 9 increased the annual amount of grant funding to \$24,500,000 beginning in 1999 and established that amount as an annual appropriation, with no statutory end date for grant funding.

2001 Act 16 provided appropriations of \$19,500,000 in 2001-02 and \$29,500,000 for municipal and county recycling grants. DNR was

**Table 3: Municipal and County Recycling Grant Program Funding Levels 1990-91 Through 2002-03**

Calendar Year	Fiscal Year	Amount
July 1, 1990 to Dec 31, 1991	1990-91	\$18,500,000
1992	1991-92	18,500,000
1993	1992-93	23,800,000
1994	1993-94	29,849,200
1995	1994-95	29,200,000
1996	1995-96	29,200,000
1997	1996-97	29,200,000
1998	1997-98	24,000,000
1999	1998-99	24,000,000
2000	1999-00	24,500,000
2001	2000-01	24,500,000
2002	2001-02	24,500,000
2003	2002-03	<u>24,500,000</u>
<b>TOTAL</b>		<b>\$324,249,200</b>

**Eligible Recipients of Grant Awards**

1989 Act 335, which created the municipal and

county grant program, became law in May, 1990. To provide start-up funding quickly, grants for the period from July 1, 1990, through December 31, 1991, were allocated through a special expedited process. Grants for subsequent years are allocated based on additional criteria. 1999 Act 9 changed the grant formula for 2000 and subsequent grant years to provide a proportional distribution based on 1999 awards. Table 4 provides a summary of the criteria and allocation method through 2001. Awards for 2003 will be made and paid by June 1, 2003.

### **Program Implementation**

The grant allocation formula used between 1991 and 1999 was complex, and was based on eligible expenses, "avoided disposal costs," the grant year and other factors. Avoided disposal costs are those costs that are not incurred by the responsible unit because material is recycled rather than disposed of by landfilling or incineration (such as landfill tipping fees). From 1992 through 2003, the grants are to be calculated using the formulas shown in Table 5.

For the 12 grant periods to date, Table 6 shows the number of units eligible for awards, total grant requests based on eligible expenses, the amount by which individual grants were prorated, if applicable, and the average per capita award. Table 7 shows the total prorated grant award as a percent of the net eligible recycling costs. In 1992, the first year of the grant formula, grant awards averaged 52% of net eligible recycling costs. The award as a percent of costs has decreased in subsequent years. In 2002, the most recent grant award cycle, grant awards averaged 27.7% of the estimated \$88.0 million in net eligible recycling costs. The award as a percent of net eligible recycling costs varied for individual responsible units.

From 1992 through 1999, initial awards were made at the beginning of the calendar year based on the estimated recycling costs of responsible unit

grantees, and were converted into final grant amounts late in the following calendar year after actual cost data was submitted to DNR by responsible units. For example, initial 1999 awards were made in February, 1999, based on estimated costs and converted into final grants in November, 2000.

For the expedited grant period, July 1, 1990, through December 31, 1991, grants were allocated by dividing total funding available by the population of eligible local governments. This resulted in a per capita payment of \$3.77 for the eighteen-month period.

### **1999 Awards**

The 1999 grant year was the last year in which the grant was calculated according to the formula used between 1991 and 1999. As indicated in Table 5, the 1999 basic grant award was determined by first calculating 66% of the difference between eligible expenses and avoided disposal costs or \$8 per capita, whichever was less. The second step was to compare this amount with 33% of eligible expenses. The responsible unit received the greater of these two amounts. Third, counties that are responsible units for at least 75% of the county's population were guaranteed a minimum annual grant of \$100,000 if they had eligible expenses equal to or greater than that amount. The final step was to prorate the awards to meet available funding.

Ten percent of funds available for 1999 grants (\$2.4 million) were allocated for supplemental grants for volume-based fees. The supplemental grant was calculated by dividing the available funds by the population subject to volume-based fees in the 310 responsible units that imposed volume-based fees for residential solid waste collection. The population of the responsible unit that was subject to volume-based fees may be smaller than the population of the responsible unit.

**Table 4: Municipal and County Recycling Grant Program Award Eligibility and Allocation Method**

Calendar Year	Eligibility Criteria and Allocation
1990 - 2001	<ul style="list-style-type: none"><li>• Eligible uses of grant funds include expenses for planning, constructing or operating one or more of the components of an effective recycling program, or to comply with the 1993 yard waste ban.</li></ul>
1990 and 1991	<ul style="list-style-type: none"><li>• Expedited grants</li><li>• Grants based on population</li><li>• 1st installment to all municipalities</li><li>• 2nd and 3rd installments to responsible units only</li><li>• No application required</li><li>• Grants could be used to purchase capital equipment</li></ul>
1992 – 1993	<ul style="list-style-type: none"><li>• Only responsible units eligible</li><li>• Application required by September 1 of prior year</li><li>• Grant award based on projected eligible expenses</li><li>• 50% of award paid by January 1 of calendar grant year</li><li>• Additional 25% paid by July 1 of grant year</li><li>• Final 25% grant payment based on report of actual expenditures submitted by April 30 of year following grant year</li></ul>
1992 – 2003	<ul style="list-style-type: none"><li>• Eligible capital expenses are limited to annual depreciation, or equipment on an hourly use basis, with the exception of the purchase of land.</li></ul>
1994	<ul style="list-style-type: none"><li>• Same as for grant years 1992 - 1993, except application required by October 31, 1993</li></ul>
1995 – 2003	<ul style="list-style-type: none"><li>• Grants only available to responsible units with DNR-approved effective recycling programs</li><li>• Application required by October 1 of prior year</li><li>• Late applications reduced to receive: if submitted after October 1 and by October 10, 95% of the awarded amount; if submitted after October 10 and by October 20, 90%; if submitted after October 20 and by October 30, 75%; and if submitted after October 30, no grant</li></ul>
1995 – 1999	<ul style="list-style-type: none"><li>• Grants only available to responsible units with DNR-approved effective recycling programs</li><li>• 50% of award paid by February 1 of calendar grant year</li><li>• Additional 25% of award paid by July 1 of grant year</li><li>• Final 25% grant payment based on report of actual expenditures submitted by April 30 of year following grant year</li></ul>
2000	<ul style="list-style-type: none"><li>• Grants only available to responsible units with DNR-approved effective recycling programs that received a grant in 1999</li></ul>
2000 – 2001 and 2003	<ul style="list-style-type: none"><li>• 100% of award paid by June 1 of calendar grant year</li></ul>
2001 - 2003	<ul style="list-style-type: none"><li>• Grants only available to responsible units with DNR-approved effective recycling programs that received a grant or would have received a grant in 1999</li></ul>
2002	<ul style="list-style-type: none"><li>• Grant awards total \$24,500,000, including \$19,500,000 distributed by June 1, 2002, from the 2001-02 appropriation, and \$5,000,000 by December 1, 2002, from the 2002-03 appropriation.</li></ul>



The total of basic plus supplemental grant could not exceed the responsible unit's eligible recycling expenses.

As illustrated in Table 6, 1,011 responsible units in the state received grants for the 1999 grant year. The 1,011 responsible units submitted eligible grant requests totaling \$35,221,300. The final basic grants were prorated at 59.8% of the eligible amount and actual awards equaled \$21,731,500. Thirteen counties received the \$100,000 grants and four other counties were eligible for the \$100,000 grant but had projected expenditures less than \$100,000, so they received 100% of their net eligible request.

These 17 county grants were not prorated. A total of 296 responsible units also received supplemental grants totaling \$2,397,900. The total final grant award amount was \$24,129,400. The 1999 final grant amount was greater than the \$24,000,000 listed in Table 3 because of the way the grant appropriation was structured. The appropriation allowed expenditures up to a cumulative total of grant funds between 1992-93 and 1998-99. Since the 1999 grant year was the final year of the cumulative appropriation, the program spent grant funds that had been authorized but not spent in prior years. The structure of the local recycling grant appropriation changed in 1999-00.

**Table 5: Municipal and County Recycling Grant Program Allocation Formula by Year**

Year	Formula
1992	66% of the difference between eligible expenses and avoided disposal costs or \$6 per capita, whichever is less.
1993-1999	66% of the difference between eligible expenses and avoided disposal costs or \$8 per capita, whichever is less.
1992-1999	Minimum grant: If the amount calculated is less than 33% of eligible expenses, the grant equals 33% of eligible expenses.
1992-1999	Minimum for certain counties: Counties that are responsible units for at least 75% of the population of the county are guaranteed a minimum grant of \$100,000, if they have eligible expenses equal to or greater than that amount.
1993-1999	Statutory per capita proration: If available funds are insufficient to fund grants under the above schedules, the first step in prorating grants is to ensure that all grantees eligible for \$6 per capita receive this amount before any grantee receives between \$6 and \$8 per capita.
1994-1999	Supplemental grant for volume-based fees: 10% of grant funds will be allocated to responsible units imposing volume-based fees for residential solid waste collection. The total basic plus supplemental grant may not exceed the responsible unit's eligible expenses.
1994-1999	Supplemental grant for multifamily residences: Any funds remaining from the supplemental grant for volume-based fees above may be used for supplemental grants to responsible units that provide for collection of recyclable materials from multifamily residences and that impose volume-based fees for residential solid waste collection. The total basic plus supplemental grants may not exceed the responsible unit's eligible expenses.
1992-1999	DNR administrative rule proration formula: If funds are not available to support the \$6 per capita proration, DNR is directed to develop a process by administrative rule to prorate grant funds. Under administrative rule NR 542, the proration formula maintains the minimum \$100,000 grant for counties that are responsible units representing at least 75% of that county's population, and prorates all other grants by an equal percentage.
2000-2003	Proportional distribution: Provide a grant to responsible units equal to the same percentage of the total grant funding as the responsible unit received or would have received in 1999.

**Table 6: Summary of Municipal and County Recycling Grant Amounts**

Calendar Year	Number of Grantees	Net Eligible Recycling Costs	Award Amount Before Proration	Prorated Award Amount	Proration Percent	Average Per Capita Award Amount
1990/1991 final	1,860 <sup>2</sup>	NA	NA	\$18,500,000	NA	\$3.77
1992 final	870	\$35,588,600	\$19,268,400	18,452,200	95.4%	4.07
1993 final	941	48,520,200	26,276,600	23,741,300	89.8	4.98
1994 final						
Basic	1,001	56,520,200	29,495,400	26,860,700	90.6	5.44
Supplemental	<u>211<sup>3</sup></u>	<u>NA</u>	<u>NA</u>	<u>2,943,900</u>	<u>NA</u>	<u>10.50</u>
Total	1,001	56,520,200	29,495,400	29,804,500	NA	6.04
1995 final						
Basic	1,010	61,023,800	30,832,100	26,182,500	84.1	5.21
Supplemental	<u>283<sup>3</sup></u>	<u>NA</u>	<u>NA</u>	<u>2,914,100</u>	<u>NA</u>	<u>6.92</u>
Total	1,010	61,023,800	30,832,100	29,096,600	NA	5.80
1996 final						
Basic	1,018	66,340,000	33,194,200	26,278,600	78.1	5.18
Supplemental	<u>299<sup>3</sup></u>	<u>NA</u>	<u>NA</u>	<u>2,915,900</u>	<u>NA</u>	<u>5.89</u>
Total	1,018	66,340,000	33,194,200	29,194,500	NA	5.75
1997 final						
Basic	1,016	68,842,900	34,123,800	26,268,900	75.9	5.13
Supplemental	<u>290<sup>3</sup></u>	<u>NA</u>	<u>NA</u>	<u>2,917,900</u>	<u>NA</u>	<u>5.84</u>
Total	1,016	68,842,900	34,123,800	29,186,800	NA	5.71
1998 final						
Basic	1,018	71,442,200	34,963,200	21,440,200	59.6	4.15
Supplemental	<u>292<sup>3</sup></u>	<u>NA</u>	<u>NA</u>	<u>2,417,900</u>	<u>NA</u>	<u>4.38</u>
Total	1,018	71,442,200	34,963,200	23,858,100	NA	4.61
1999 final						
Basic	1,011	73,262,600	35,221,300	21,731,500	59.8	4.18
Supplemental	<u>296<sup>3</sup></u>	<u>NA</u>	<u>NA</u>	<u>2,397,900</u>	<u>NA</u>	<u>4.13</u>
Total	1,011	73,262,600	35,221,300	24,129,400	NA	4.64
2000 final Total	999	76,581,100	NA	24,312,500	NA	4.66
2001 award Total	1,011	84,153,000	NA	24,350,800	NA	4.61
2002 award Total	1,018	88,033,100	NA	24,423,800	NA	4.54

NA: Not applicable

<sup>1</sup> For final grants, this equals the lesser of the actual net eligible recycling costs and the net eligible recycling costs that were estimated at the time of the initial grant award.

<sup>2</sup> This equals the 1990 total of 1,849 municipalities plus 11 Indian tribes. Since the first expedited grant installment was made to all municipalities and Indian tribes, and subsequent installments only to responsible units, this is the maximum number of units that received any of the expedited grant installments.

<sup>3</sup> All grantees that received a supplemental grant first received a basic grant.

**Table 7: Municipal and County Recycling Grants: Eligible Cost, Grant Award and Award as Percent of Costs (\$ Millions)**

Calendar Year	Net Eligible Recycling Costs	Prorated Award Amount	Grant Award as % of Net Eligible Costs
1992	\$35.6	\$18.5	52.0%
1993	48.5	23.7	48.9
1994	56.5	29.8	52.7
1995	61.0	29.1	47.7
1996	66.3	29.2	44.0
1997	68.8	29.2	42.4
1998	71.4	23.9	33.5
1999	73.3	24.1	32.9
2000	76.6	24.3	31.7
2001*	84.2	24.4	29.0
2002*	88.0	24.4	27.7

\*Estimated net eligible recycling costs.

### 2000 Through 2002 Awards

Under 1999 Act 9, the grant formula changed beginning in grant year 2000. In order to be eligible for a grant in 2000, a responsible unit had to have received financial assistance in 1999 and DNR had to have determined that the responsible unit has an effective recycling program. In 2000, 11 responsible units applied for and did not receive grants because they did not receive a grant in 1999. Beginning in the 2001 grant year and in subsequent years, the requirement that a responsible unit have received a grant in 1999 does not apply.

The 2002 grant amount was calculated as the same percentage of the 2002 appropriation of \$24,500,000 as the responsible unit received or would have received of the 1999 appropriation of \$24,000,000. The actual grant amount was capped by the projected net eligible recycling costs for each responsible unit, and was reduced by any late application penalty.

For the 2002 grant year, Tables 8 through 13 show the distribution of grant awards in several different ways and include the population represented by the responsible units receiving those awards, the net eligible recycling costs, the

total grant award, the average per capita grant award and the grant award as a percent of net eligible recycling costs.

Table 8 shows the distribution of 2002 grant awards by type of local government unit. While 59.0% of the responsible units were towns, towns represented 18.0% of the population of responsible units that received grant awards and 12.8% of the total grant award dollars. Responsible units that are cities represented 46.2% of the population and 48.3% of the total grant award dollars. While the statewide average award as a percent of the net eligible recycling costs was 27.7% and the average award per capita was \$4.54, these measurements varied by responsible unit.

Most of the responsible unit grant recipients had populations under 2,500. As shown in Table 9, the 743 responsible units with populations under 2,500 represented 73.0% of the responsible units that received grants, 14.1% of the population served through the grants and 12.1% of the total grant award dollars in 2002. In comparison, five responsible units with populations of 100,000 or greater represented 0.5% of the responsible units, but included 25.1% of the population that received grants and 20.8% of the total grant award dollars in 2002.

Table 10 lists the number and total dollar amount of 2002 recycling grant awards received by the size of the award and includes the population represented within each category. Table 10 shows that 561 grant awards, totaling \$1,224,362, were less than \$5,000 each and were made to responsible units representing a total population of 485,896. These grants represent approximately 9.0% of the population of grantees and 5.0% of the awarded grants. Six grant awards, totaling \$6,679,166, were each \$500,000 or larger and were made to approximately 26.9% of the population served and approximately 27.3% of the grant award dollars.

**Table 8: 2002 Municipal and County Recycling Grants to Responsible Units (RUs) by Governmental Unit Type**

Type	Number of RUs	Population	Net Eligible Recycling Costs	Grant Award	Average Per Capita Grant Award	Average Award as a % of Net Eligible Recycling Costs
Town	601	970,795	\$10,876,272	\$3,120,102	\$3.21	28.7%
Village	232	532,335	10,992,777	2,405,185	4.52	21.9
City	130	2,485,651	48,917,378	11,790,086	4.74	24.1
County	34	1,329,737	16,075,875	6,772,694	5.09	42.1
Indian Tribe	9	19,301	779,643	176,931	9.17	22.7
Other	<u>12</u>	<u>41,713</u>	<u>391,138</u>	<u>158,847</u>	<u>3.81</u>	<u>40.6</u>
<b>Total</b>	<b>1,018</b>	<b>5,379,532</b>	<b>\$88,033,083</b>	<b>\$24,423,845</b>	<b>\$4.54</b>	<b>27.7%</b>

**Table 9: 2002 Municipal and County Recycling Grants to Responsible Units (RUs) by Population Size**

Population	Number of RUs	Population	Net Eligible Recycling Costs	Grant Award	Average Per Capita Grant Award	Average Award as a % of Net Eligible Recycling Costs
Less than 2,500	743	760,214	\$10,763,709	\$2,960,140	\$3.89	27.5%
2,500 to 4,999	111	388,774	6,569,657	1,551,308	3.99	23.6
5,000 to 9,999	68	474,974	7,958,437	2,162,502	4.55	27.2
10,000 to 24,999	58	902,964	15,451,945	4,535,667	5.02	29.4
25,000 to 49,999	22	775,120	10,840,184	3,584,859	4.62	33.1
50,000 to 99,999	11	727,763	11,492,157	3,543,167	4.87	30.8
100,000 and over	<u>5</u>	<u>1,349,723</u>	<u>24,956,995</u>	<u>6,086,202</u>	<u>4.51</u>	<u>24.4</u>
<b>Total</b>	<b>1,018</b>	<b>5,379,532</b>	<b>\$88,033,083</b>	<b>\$24,423,845</b>	<b>\$4.54</b>	<b>27.7%</b>

**Table 10: 2002 Municipal and County Recycling Grants to Responsible Units (RUs) by Amount of Award**

Award Amount	Number of RUs	Population	Net Eligible Recycling Costs	Grant Award	Average Per Capita Grant Award	Average Award as a % of Net Eligible Recycling Costs
\$1-4,999	561	485,896	\$4,481,649	\$1,224,362	\$2.52	27.3%
5,000-9,999	170	331,784	4,393,060	1,229,932	3.71	28.0
10,000-24,999	144	527,548	9,282,980	2,191,387	4.15	23.6
25,000-49,999	53	415,197	7,701,615	1,824,226	4.39	23.7
50,000-99,999	35	545,063	9,532,969	2,594,164	4.76	27.2
100,000-499,999	49	1,628,338	26,762,160	8,680,607	5.33	32.4
500,000 and over	<u>6</u>	<u>1,445,706</u>	<u>25,878,651</u>	<u>6,679,166</u>	<u>4.62</u>	<u>25.8</u>
<b>Total</b>	<b>1,018</b>	<b>5,379,532</b>	<b>\$88,033,083</b>	<b>\$24,423,845</b>	<b>\$4.54</b>	<b>27.7%</b>

For the 2002 grant year, the grant award averaged \$4.54 per capita. The award averaged 27.7% of the net eligible recycling costs. Table 11 shows that this varied among responsible units. Approximately 21.5% of the grantees, with 7.4% of the total grantee population, received awards that averaged less than \$2 per capita, with awards averaging 23.0% of total net eligible recycling costs. In comparison, 21 responsible units, with 1.7% of the total grantee population, received awards that averaged \$10 and over per capita, but these awards averaged 33.2% of the net eligible recycling costs of the 21 responsible units.

Table 12 shows the grant award as a percent of the net eligible recycling costs. The award as a percent of net eligible recycling costs varied widely, ranging from 0.87% to 100% of net eligible

recycling costs. In the group of 217 responsible units that had awards that averaged less than 20% of net eligible recycling costs, the per capita award ranged from \$0.21 to over \$44. In the group of 28 responsible units that had awards that averaged 80% to 100% of net eligible costs, the per capita award ranged from \$0.35 to over \$19.

Table 13 lists the 55 responsible units with the grant awards of \$100,000 or greater for the 2002 grant year. These responsible units, all of which are cities or counties, except for one village, include 57.1% of the total grantee population and 62.9% of the total grant awards. The grant award for the 55 responsible units as a percent of net eligible recycling costs varied from 14% to 100%, depending on the 1999 grant amount and estimated net eligible costs.

**Table 11: 2002 Municipal and County Recycling Grants to Responsible Units (RUs) by Award Per Capita**

Award Per Capita	Number of RUs	Population	Net Eligible Recycling Costs	Grant Award	Average Per Capita Grant Award	Average Award as a % of Net Eligible Recycling Costs
\$0.01 to \$1.99	219	398,195	\$2,275,534	\$524,268	\$1.32	23.0%
2.00 to 3.99	318	1,078,515	12,460,254	3,464,733	3.21	27.8
4.00 to 5.99	330	3,208,591	59,922,932	14,996,175	4.67	25.0
6.00 to 7.99	93	526,422	7,896,128	3,597,326	6.83	45.6
8.00 to 9.99	37	77,321	1,916,141	660,394	8.54	34.5
10.00 and over	<u>21</u>	<u>90,488</u>	<u>3,562,094</u>	<u>1,180,949</u>	<u>13.05</u>	<u>33.2</u>
Total	1,018	5,379,532	\$88,033,083	\$24,423,845	\$4.54	27.7%

**Table 12: 2002 Municipal and County Recycling Grants to Responsible Units (RUs) by Award as a Percent of Net Eligible Recycling Costs**

Award as % of Net Eligible Recycling Costs	Number of RUs	Population	Net Eligible Recycling Costs	Grant Award	Average Per Capita Grant Award	Average Award as a % of Net Eligible Recycling Costs
0.1% to 19.99%	217	928,886	\$25,247,119	\$4,099,967	\$4.41	16.2%
20 to 39.99	544	3,299,504	52,330,088	14,296,360	4.33	27.3
40 to 59.99	167	672,214	6,417,118	3,036,179	4.52	47.3
60 to 79.99	62	341,156	2,958,158	1,984,546	5.82	67.1
80 to 100	<u>28</u>	<u>137,772</u>	<u>1,080,599</u>	<u>1,006,794</u>	<u>7.31</u>	<u>93.2</u>
Total	1,018	5,379,532	\$88,033,083	\$24,423,845	\$4.54	27.7%

**Table 13: 2002 Municipal and County Recycling Grants to Responsible Units (RUs) - Largest 55 Grant Awards Includes All Awards of \$100,000 or Greater**

Municipality	Population	Net Eligible Recycling Costs	Grant Award	Average Per Capita Grant Award	Average Award as a % of Net Eligible Recycling Costs
Milwaukee, City of	595,508	\$10,060,255	\$2,800,636	\$4.70	27.8%
Waukesha County	261,040	4,156,615	1,130,820	4.33	27.2
Madison, City of	210,377	5,397,513	958,341	4.56	17.8
Outagamie County	180,407	1,642,412	670,008	3.71	40.8
Eau Claire County	95,983	921,656	592,963	6.18	64.3
Green Bay, City of	102,391	3,700,200	526,397	5.14	14.2
Kenosha, City of	90,963	1,431,297	468,546	5.15	32.7
Racine, City of	81,665	1,778,236	381,939	4.68	21.5
West Allis, City of	61,164	1,150,273	308,169	5.04	26.8
Portage County	64,280	1,305,398	294,773	4.59	22.6
Oshkosh, City of	63,225	1,150,377	285,034	4.51	24.8
Janesville, City of	60,483	709,371	271,457	4.49	38.3
Manitowoc, City of	34,161	474,714	267,317	7.83	56.3
Chippewa County	50,908	530,713	261,554	5.14	49.3
Oconto County	36,220	415,121	254,798	7.03	61.4
Neenah, City of	24,528	1,118,856	253,094	10.32	22.6
Pierce County	37,198	672,357	245,555	6.60	36.5
Sheboygan, City of	50,753	1,338,235	233,995	4.61	17.5
St. Croix County	56,735	388,071	227,766	4.01	58.7
Wauwatosa, City of	47,179	1,084,196	224,892	4.77	20.7
La Crosse, City of	51,604	788,529	216,970	4.20	27.5
Waupaca County	41,860	676,571	209,620	5.01	31.0
Dunn County	37,148	507,751	192,738	5.19	38.0
Polk County	41,787	306,351	190,846	4.57	62.3
Fond du Lac, City of	42,411	809,618	188,411	4.44	23.3
Wausau, City of	38,654	666,620	177,740	4.60	26.7
Vernon County	28,718	453,289	173,394	6.04	38.3
Monroe County	40,264	470,000	171,707	4.26	36.5
Beloit, City of	35,931	596,783	165,946	4.62	27.8
Columbia County	38,639	710,942	164,952	4.27	23.2
Greenfield, City of	35,568	515,282	148,537	4.18	28.8
Vilas County	21,188	378,743	141,572	6.68	37.4
West Bend, City of	28,353	503,939	129,836	4.58	25.8
Watertown, City of	21,928	767,322	128,652	5.87	16.8
Fitchburg, City of	20,815	358,903	124,654	5.99	34.7
Allouez, Village of	15,476	628,322	123,053	7.95	19.6
Richland County	16,335	140,138	121,489	7.44	86.7
Superior, City of	27,387	437,398	121,290	4.43	27.7
Adams County	17,966	160,750	118,605	6.60	73.8
De Pere, City of	20,777	587,200	118,271	5.69	20.1

**Table 13: 2002 Municipal and County Recycling Grants to Responsible Units (RUs) - Largest 55 Grant Awards Includes All Awards of \$100,000 or Greater (continued)**

Municipality	Population	Net Eligible Recycling Costs	Grant Award	Average Per Capita Grant Award	Average Award as a % of Net Eligible Recycling Costs
Buffalo County	11,640	\$151,538	\$117,490	\$10.09	77.5%
Iron County	6,861	112,000	111,841	16.30	99.9
Oak Creek, City of	29,232	461,999	110,259	3.77	23.9
Burnett County	15,444	117,700	107,753	6.98	91.5
South Milwaukee, City of	21,308	413,292	105,345	4.94	25.5
Waushara County	22,528	136,812	104,311	4.63	76.2
Two Rivers, City of	12,625	307,680	103,103	8.17	33.5
Jackson County	18,747	113,733	102,536	5.47	90.2
Door County	28,220	142,740	102,159	3.62	71.6
Forest County	10,039	128,738	102,159	10.18	79.4
Menominee County	4,591	148,332	102,159	22.25	68.9
Oneida County	29,382	195,000	102,159	3.48	52.4
Washburn County	16,209	120,930	102,159	6.30	84.5
Florence County	5,112	100,000	100,000	19.56	100.0
Marquette County	14,129	100,000	100,000	7.08	100.0
Total – 55 Grants	3,074,044	\$52,640,811	\$15,359,773	\$5.00	29.2%
Statewide Total – 1,018 Grants	5,379,532	\$88,033,083	\$24,423,845	\$4.54	27.7%
55 Largest Grants % to Total	57.1%	59.8%	62.9%	NA	NA

### Administration of Grants

The grant program is administered by DNR in the Bureau of Community Financial Assistance in the Customer Assistance and External Relations (CAER) Division central office. In 2002-03, the central office is authorized 2.0 segregated (SEG) recycling fund positions to administer the municipal and county recycling grant program, the waste reduction and recycling demonstration grant program and the recycling efficiency incentive grant program.

### Audit of Grants and Responsible Units

Prior to 2001-02, the statutes directed DNR to annually audit at least 5% of the recipients of the

grants to ensure that funded programs and activities meet established requirements. DNR may withhold all or part of a grant if it determines that either: (a) the responsible unit has not maintained an effective recycling program; or (b) the responsible unit spent all or part of a previous grant for ineligible costs. After final grants were determined, DNR audited 108 grants totaling \$24.5 million received by 44 recipients of 1992 through 1999 grants. DNR audits resulted in some adjustments to eligible expense totals, but audited responsible units generally received their entire grant. No responsible units have been disqualified from grant eligibility as a result of an audit.

In 2001 Act 16, the audit requirement was deleted and replaced with a requirement that DNR

annually review the effective recycling programs of at least 5% of the responsible unit grant recipients to ensure that programs and activities funded by responsible unit grants meet the requirements of the program. Based on 1,018 responsible unit grant recipients, DNR would need to review at least 51 programs annually to comply with the annual review requirement. In each of 2000-01 (before the requirement went into effect) and 2001-02, DNR reviewed over 100 programs, including at least 20 programs per region per year. This represented over 10% of responsible units. DNR selected programs for review that had prior problems with the program, had provided incomplete annual report information, had received complaints from residents, had a lower annual recycling rate than the per capita goals or had an exceptionally good program that could provide lessons about how to operate a successful program. DNR made site visits to reviewed programs and worked with responsible units to correct any observed program deficiencies. DNR has not placed any responsible units on probation as a result of the reviews.

---

### **Recycling Efficiency Incentive Grant Program**

---

In 2001 Act 16, a recycling efficiency incentive grant program was created. DNR is appropriated \$1,900,000 SEG in 2002-03 from the recycling fund for grants to responsible units under the program. A recycling efficiency incentive grant plus a municipal and county recycling grant may not exceed the net eligible costs that the responsible unit incurred in the year two years before the year for which the efficiency incentive grant is made. For example, a recycling efficiency incentive grant awarded in 2002-03 for calendar year 2003, when awarded in the spring of 2003 for calendar year 2003, may not exceed the total net eligible costs from calendar year 2001 and reported to DNR in the spring of 2002.

The statutes direct DNR to promulgate administrative rules for the program but do not specify other eligibility criteria or program requirements and do not define "efficiency incentive." Responsible units may choose whether to apply for a grant under the program. DNR submitted proposed administrative rule chapter NR 549 to the Legislature for administration of the recycling efficiency incentive grant program. In October, 2002, the Assembly Environment Committee requested DNR to make revisions in the rule. As of December, 2002, DNR was making changes in the rule to address concerns of the Assembly Environment Committee.

Under proposed NR 549, applications for the 2002-03 grant period (calendar year 2003) would be due to DNR by March 1, 2003, and DNR would award and distribute the \$1,900,000 in available funding before June 30, 2003. Applicants for calendar year 2003 grant funding are required to claim that a recycling efficiency was implemented before February 28, 2003. Applications for 2004 would be due by October 30, 2003, and must claim that a recycling efficiency was implemented between March 1, 2003, and October 30, 2003. Applications for 2005 would be due by October 30, 2004, and must claim that a recycling efficiency was implemented between October 31, 2003, and October 30, 2004, and was in place before April 30, 2004.

Under the recycling efficiency incentive grant administrative rule, the grant applicant's costs of operating the recycling program minus the proceeds from the sale of recycled material, that are reasonable and necessary for planning, constructing or operating a recycling program, are eligible for grant assistance.

Under the proposed rule, responsible unit applicants could claim the following types of efficiencies for calendar year 2003 grant funds:



1. The responsible unit was formed by the consolidation of two or more prior responsible units before February 28, 2003.

2. A county has formally been designated by cities, towns, and villages within its jurisdiction to serve as the recycling responsible unit.

3. The responsible unit is other than a county, achieved a population of at least 50,000 before February 28, 2003, and can claim at least one of the following efficiencies has been undertaken before February 28, 2003: (a) conducted or hired a consultant to conduct a study to analyze cost-effective changes to local recycling program; or (b) was or is a member of an organization that is composed of at least 50% responsible units and meets at least once per year and discussed the planning, development, implementation, or evaluation of any recycling activity during these meetings.

4. The responsible unit has entered into a cooperative agreement with at least one other responsible unit for: (a) direct recycling services by or for the responsible unit; or (b) private vendor services to be shared by the participating responsible units.

Under the proposed rule, for calendar year 2004 grants and grants in subsequent years, measures of efficiency can include:

1. Formal consolidation agreements entered into at least six months before future grant application deadlines and implemented no later than January 1 of the grant year.

2. A county newly chosen to be the recycling responsible unit by cities, towns, and villages within its jurisdiction at least six months before future grant application deadlines with a start date

of no later than January 1 of the grant year.

3. Non-counties achieving a population of at least 50,000 by the application deadline and meeting specified criteria.

4. New written cooperative agreements for direct recycling services or shared private vendor services entered into at least six months before future grant application deadlines with a start date of no later than January 1 of the grant year.

If responsible unit applicants claim that they are implementing a recycling efficiency through a cooperative agreement, they must demonstrate either: (a) the probability of a reduction in eligible costs for the year or an increase in recycling materials sales revenues; or (b) an increase in the quality or scope of the recycling program for the year in which the responsible unit attributes the efficiency measures.

Under proposed NR 549, DNR will award a grant to each responsible unit that submits a complete application that is approved by the Department. The grant amount will be determined as follows: (a) DNR will determine a per capita grant amount by dividing the appropriated grant funds by the sum of the population of all responsible units with approved applications; (b) the per capita amount will be multiplied by the population of each eligible responsible unit to determine the grant amount; (c) DNR will limit the grant amount so that the grant plus the municipal and county recycling grant does not exceed the net eligible costs that the responsible unit incurred in the year two years before the year for which the efficiency incentive grant is made; and (d) DNR will distribute all funds in a grant year to eligible applicants until all eligible applicants have received their statutory maximum awards.

---

## Recycling Market Development Board

---

Recycling market development programs were administered by the former Department of Development (now Commerce) from 1991-92 through 1994-95. The Department spent \$15.1 million on recycling market development grants, loans, technology assistance and rebates for qualified recycling equipment.

In 1993-94, the Recycling Market Development Board (RMDB) was created to promote the development of markets for recovered materials and maximize the marketability of these materials. The RMDB took over many of the recycling market development programs formerly administered by the Department of Development. In October, 1997, the Board was attached to the Department of Commerce, for certain limited administrative purposes. 1999 Act 9 made several modifications to the structure and duties of the Board including placing the RMDB directly within the Department of Commerce reducing the Board's quasi-independent status. The current structure of the RMDB is described in this section.

Under the 1999 Act 9 changes, the membership of the Board was decreased from 11 members to five members. The members include: (a) the Secretary of Commerce, or his or her designee; (b) two persons representing responsible units; and (c) two persons with expertise in the marketing of materials recovered from solid waste or the development of markets for these materials. The members who are not agency heads are appointed by the Governor for staggered, three-year terms.

### Authority

The Board is authorized to award a grant, loan or manufacturing rebate to a governmental entity or a business entity to assist waste generators in the marketing of recovered materials or to develop

markets for recovered materials. At the request of the RMDB, Commerce provides the financial assistance awarded by the Board.

Before awarding the financial assistance, the RMDB is required to consider the extent to which the project: (a) maximizes the marketability of recovered materials on a statewide basis; (b) minimizes the amount of recovered materials disposed of in landfills or burned without energy recovery in incinerators; (c) includes materials that are banned from landfills and that will support community recycling efforts; and (d) maintains present markets or creates new or expanded markets for recovered materials.

If the RMDB determines that financial assistance is required to stimulate an activity that it determines is needed to assist responsible units in the marketing of recovered materials or to develop markets for recovered materials, the RMDB may request Commerce to issue a request for proposals for that activity, unless the RMDB determines that a request for proposals is not an effective means for distributing the financial assistance for that activity. Upon receiving a request from the Board, Commerce is required to issue a request or proposals for the specified activity.

### Funding and Programs

During the 2001-03 biennium, the RMDB is appropriated \$2,000,000 program revenue (PR) from loan repayments in each year for financial assistance. Prior to 1999-00, the RMDB was also appropriated monies from the segregated recycling fund. As of June 30, 2002, the RMDB had received \$5,451,000 in loan repayments that were deposited in the program revenue appropriation and had expended \$1,691,700 of those repayments on additional financial assistance awards. As of July 1, 2002, the RMDB had \$3,759,300 in available loan repayments for financial assistance and anticipated receipt of \$751,800 in additional loan repayments during 2002-03, for total available funds of

\$4,511,100.

The RMDB is appropriated \$65,800 SEG in each of 2001-02 and 2002-03 for RMDB operations with 1.0 authorized position.

1999 Act 9 directed the RMDB and Commerce to provide the following three specified types of financial assistance:

1. Provide a grant of \$50,000 annually to a private, nonprofit organization that provides waste reduction and recycling assistance through business-to-business peer exchange. Commerce provided the grant to WasteCap Wisconsin Inc. in each year of 1999-00 through 2002-03.
2. Annually contract for the statewide materials exchange program with a materials exchange program that received funding from the RMDB in the 1997-99 biennium. Commerce provided \$100,000 in each year of 1999-00 through 2002-03 to the Business Materials Exchange of Wisconsin.
3. Provide a one-time \$133,000 grant in the 1999-01 biennium to the West Central Wisconsin Biosolids Facility Commission for a feasibility study of creating sludge-based products and of marketing those products and to develop markets for the biosolid materials being produced from waste products by the Commission.

Since 1993, the RMDB has administered several recycling market development programs. The 2001-03 list of recoverable materials that the RMDB will fund is shown in Table 14. The cumulative amount of financial assistance awarded for each program is shown in Table 15. Of the \$26.0 million of funds awarded by the Board, the largest use of funds was for the Board's recycling loan program. Almost \$12.6 million, or 48% of awarded funds, was approved for recycling loans.

**Table 14: Materials Eligible for Financial or Technical Assistance from the Recycling Market Development Board, 2001-03**

Banned Materials	Non-Banned Materials
Aluminum Containers	Aerosol/Paint Cans
Appliances	Composites (Plastic with wood or concrete or paper)
Corrugated Cardboard (OCC)	Computers and Electronics
Glass Containers (Flint)	Construction and Demolition Waste
Glass -- Separated Color	Fly Ash and Bottom Ash
Glass -- Mixed Broken	Food Waste -- Industrial
Lead Acid Batteries	Food Waste -- Residential
Metal -- Bimetal Containers	Foundry Processed Waste
Metal -- Steel Containers	Oil Filters -- Used
Motor oil -- Used	Mercury -- Products intentionally containing Mercury
Paper -- Magazines (OMG)	Paper -- Commercial Mixed
Paper -- Newsprint (ONP)	Paper -- Residential Mixed
Paper -- Office	Plastic -- Film (Non-Residential Single Polymer Film)
Plastic -- HDPE containers	Wood -- Scrap Wood and Pallets
Plastic -- Mixed #3-7 Plastic Containers	Pulp & Papermill Sludge
Plastic -- PETE Containers	
Plastic -- PS Foam Packaging	
Tires	
Yard Waste	

**Table 15: Recycling Market Development Board: Financial Assistance Awarded by Category as of December, 2002**

Category	Amount Awarded	Percent
Loans	\$12,575,212	48.3%
Rebates	4,788,390	18.4
Grants	2,297,842	8.8
Technical Assistance	2,028,979	7.8
Research	1,638,994	6.3
Education	1,371,833	5.3
Administrative Services	<u>1,330,613</u>	<u>5.1</u>
<b>TOTAL</b>	<b>\$26,031,863</b>	<b>100.0%</b>

In the 2001-03 biennium, the RMDB is administering three programs, including recycling loans, recycling technology assistance and recycling early planning grants.

**Recycling Loan Program.** Low-interest loans are available to encourage the use of materials recovered from solid waste as a raw material in

production, and can be used for equipment purchases for start up or expanding recycling businesses. Commerce and the RMDB finance up to 75% of project costs up to \$750,000.

**Recycling Technology Assistance Program.** Low-interest loans are available to encourage businesses to research and develop innovative ways to utilize recovered materials generated in the state. Commerce and the RMDB finance up to 75% of project costs up to \$250,000. The loans can be forgiven if the research does not result in a marketable product or process.

**Recycling Early Planning Grant.** Grants are available to help entrepreneurs and small businesses obtain the professional services necessary to evaluate the feasibility of a proposed business start up or expansion. Commerce and the RMDB fund up to 75% of project costs up to \$3,000 for business planning grants or \$15,000 for special opportunity grants to assist projects with a statewide impact.

Prior to 1999-01, the RMDB funded several other activities. These included: (a) rebates for a portion of the cost of eligible machinery or equipment that is used in making a product from recoverable materials; (b) technical assistance to develop and promote the development of recycling markets for specific recoverable materials; (c) grants for research studies related to recycling market development priorities, more than half of which was for the University of Wisconsin System's Solid Waste Recovery Research Program; (d) administrative and consultant services for the RMDB; (e) grants for activities that educate businesses about the use of recovered materials in their products or processes and educate waste generators on their role in the development of markets for recovered materials.

---

## **Waste Reduction and Recycling Demonstration Grant Program**

---

DNR administers the waste reduction and recycling demonstration grant program to provide cost-share grants to municipalities, public entities, businesses and nonprofit organizations for projects which implement innovative waste reduction and recycling activities. DNR is also authorized to issue requests for proposals for projects that include waste reduction and recycling activities eligible for funding under this program. Projects funded under a request for proposal do not have to be innovative. DNR requests for proposals may also emphasize community-wide waste reduction efforts. Positions allocated to DNR for the municipal and county recycling grants program also manage the waste reduction and recycling demonstration grant program.

### **Criteria**

DNR is directed to consider the following criteria when deciding eligibility and determining the amount of the demonstration grant: (a) the weight or volume of solid waste to be diverted from disposal; (b) the types of waste reduction and recycling activities to be implemented; (c) existing waste reduction and recycling activities; (d) existing and anticipated solid waste management needs; (e) the value of implementation of the waste reduction or recycling activities as a demonstration project; and (f) the implementation of innovative technologies, including the application or implementation of innovative technologies in a project which employs a proven technology. A grant may not exceed 50% of the project's actual eligible costs, or 75% of the actual eligible costs of a community-wide waste reduction project, or \$150,000, whichever is less.

In 1997 Act 237, DNR was directed to provide grants from the program to the following organizations, without being subject to standard application procedures or grant funding limitations: (a) \$100,000 to the Wheelchair Recycling Project for refurbishing used wheelchairs and other mobility devices and returning them to use by persons who otherwise would not have access to needed or appropriate equipment; and (b) \$409,800 to the Department of Corrections for the purpose of refurbishing and recycling used computers.

In 1999 Act 9, DNR was directed to provide additional grants to the Wheelchair Recycling Project totaling \$175,000 in 1999-00 and \$150,000 in 2000-01. Further, the Department of Corrections computer recycling program was funded directly beginning in 1999-01 rather than through the waste reduction and recycling demonstration grant program, and is described in a later section

### Requests for Proposals

For grant cycles since 1995, DNR has requested proposals to target several areas, including: (a) increasing recycling of construction and demolition debris; (b) expanding appropriate recycling of special wastes and problem materials such as food waste, computers and other consumer electronics, thermostats, switches, lamps and other materials containing mercury, paint, textiles, carpeting and books; (c) establishing local partnerships to reduce and/or reuse solid waste generated at area industries, institutions and retail and commercial businesses; (d) developing and implementing community-wide waste reduction programs that reduce the amount of waste being produced, reduce the amount of materials used in manufacturing or extend the life of materials; and (e) implementing systems by product manufacturers and/or retailers to accept return of used consumer products and/or packaging for reuse or recycling. The amount awarded for demonstration grants under a request for proposals may not exceed 50% of the total amount

available for demonstration grants in that fiscal biennium.

### Grant Awards

The program has an available unencumbered balance from prior year appropriations of \$738,700 in 2002-03 and is appropriated \$500,000 in 2002-03 from the SEG recycling fund. DNR may not award grants to any applicant that cumulatively total more than \$250,000 (other than the wheelchair recycling grants). The program has made 154 grants totaling \$10.8 million. DNR requested proposals in grant cycles beginning in 1997. Table 16 lists the funded recycling demonstration projects by the category of project from 1991 through December, 2002. The largest category of grant projects is plastic, with almost \$2.0 million in grants, representing over 18% of grant funds.

**Table 16: Waste Reduction and Recycling Demonstration Grants as of December, 2002**

Category	Projects	Funding	Percent of Funding
Plastic	20	\$1,955,630	18.1%
Other Wastes	20	1,897,182	17.6
Industrial Waste	24	1,661,272	15.4
Paper	16	1,229,564	11.4
Construction and Demolition	16	1,137,218	10.5
Hazardous Waste Collection and Marketing Efficiency	12	650,556	6.0
Composting	19	640,967	6.0
Waste Reduction	7	509,314	4.7
Glass	9	436,376	4.0
Food and Other Organics	5	358,835	3.3
	6	<u>318,696</u>	<u>3.0</u>
<b>TOTAL</b>	<b>154</b>	<b>\$10,795,610</b>	<b>100.0%</b>

---

### Segregated Recycling Fund

---

The majority of state solid waste recycling and waste reduction programs are funded from the

segregated recycling fund, which is a separate, nonlapsable trust fund created in 1989. This fund receives revenues from a recycling surcharge established in 1991 and a recycling tipping fee effective January 1, 2000.

Table 17 shows actual revenues and expenditures for the recycling fund for 2001-02 and estimated revenues and expenditures for 2002-03. An unappropriated balance of approximately \$13.6 million was available at the beginning of 2001-02. Expenditures from the recycling fund for 2001-02 totaled \$22.5 million. Net appropriations from the recycling fund for 2002-03 total \$34.7 million. For a complete listing of individual appropriations from the segregated recycling fund, see Appendix I.

**Table 17: Recycling Fund Condition – 2001-03 (\$ in Millions)**

	2001-02 Actual	2002-03 Estimated
<b>Revenues</b>		
Opening Balance -- July 1	\$13.6	\$8.7
Recycling Surcharge	12.5	14.4
Recycling Tipping Fee	6.0	21.6
Interest Income and Other	<u>0.5</u>	<u>0.1</u>
Total Revenue	\$19.0	\$36.1
Total Available	\$32.6	\$44.8
<b>Program Expenditures</b>		
Program Expenditures	-\$22.5	-\$34.7
Encumbrances and Continuing Balances	-1.4	-0.0
Transfer to the General Fund	0.0	-3.0
Transfer to the Conservation Fund	<u>0.0</u>	<u>-1.0</u>
Closing Balance -- June 30	\$8.7	\$6.1

Appendix II shows the cumulative recycling fund revenues and expenditures from 1990-91 through 2001-02 (including year-end encumbrances in 2001-02). Of the \$448.3 million in recycling fund revenues during the 12 years, the recycling

surcharge provided \$388.1 million, or 86.6% of the total revenue. A transfer from the general fund in 1990-91 provided \$29.7 million, or 7.4% of the total revenue. Recycling fund expenditures during 1990-91 through 2001-02 have totaled \$438.9 million. The largest cumulative expenditure category is the DNR municipal and county recycling grant program with \$293.8 million, or 66.9% of total expenditures.

The second largest expenditure was from transfers to the general fund in 1991-92, 1995-96, 1997-98, 1999-00 and 2000-01 that totaled \$51.7 million, or 11.8% of the total expenditures. Under 2001 Act 16 and Act 109, \$7,100 was transferred to the general fund in 2001-02 and \$3,008,400 will be transferred from the recycling fund to the general fund in 2002-03. As authorized by 2001 Act 108, under a plan approved by the Joint Committee on Finance on October 9, 2002, \$1,000,000 is transferred from the recycling fund to the conservation fund in 2002-03 for purposes of activities related to chronic wasting disease management in deer.

Recycling market development financial assistance programs administered by the Department of Development prior to June 30, 1995, and the Recycling Market Development Board included \$36.4 million in expenditures, or 8.3% of total expenditures.

---

### Recycling Surcharge

---

The temporary state recycling surcharge was first imposed on businesses for tax years ending after April 1, 1992, and it remained in effect until April, 1999. From tax year 1991 until tax year 1997, the surcharge was equal to 5.5% of the gross tax liability of corporations. For tax year 1998, the surcharge rate was reduced to 2.75% of the gross tax liability of corporations. There was a minimum

payment of \$25 and a maximum payment of \$9,800. Corporations (including S corporations) with less than \$4,000 in total receipts were excluded from the recycling surcharge.

Nonfarm sole proprietorships, partnerships, limited liability companies (LLCs) and S corporations were also subject to a recycling surcharge of 0.4345% of net business income from tax year 1991 to tax year 1997. The rate was reduced to 0.2173% for tax year 1998. The minimum payment was \$25 and the maximum was \$9,800. Members of the clergy and noncorporate farms with less than \$1,000 of net farm profits were also exempt from the surcharge. Noncorporate farms that were subject to the surcharge paid a flat amount of \$25. The rates of 0.4345% and then 0.2173% applied to the net business income sole proprietorships, partnerships, S corporations and LLCs taxed as partnerships were equivalent to the 5.5% and 2.75% rates, respectively, that applied to the gross tax liability of corporations. For corporations, gross tax liability is determined by applying the corporate tax rate of 7.9% to net income. When the corporate tax rate of 7.9% is multiplied by the surcharge rates of 5.5% and 2.75%, the resulting tax rates are 0.4345% and 0.2173%, respectively.

As noted, the temporary recycling surcharge was eliminated for all businesses beginning with tax years ending after April, 1999. Consequently, taxpayers were generally not subject to the recycling surcharge for tax year 1999. However, the 1999-01 biennial budget (1999 Wisconsin Act 9) created a recycling surcharge on businesses, beginning in tax year 2000. Under the provisions of Act 9, the recycling surcharge is 3% of gross tax liability for corporations or 0.2% of net business income for nonfarm sole proprietorships, partnerships, limited liability companies taxable as partnerships and S corporations. There is a minimum payment of \$25 and a maximum

payment of \$9,800. Nonfarm businesses with less than \$4,000,000 in gross receipts are excluded from paying the surcharge. Farms with gross receipts in excess of \$4,000,000 pay the \$25 minimum payment.

The Department of Revenue is authorized to administer the temporary surcharge under provisions governing administration of the individual and corporate income and franchise taxes, including provisions relating to audits and assessments, claims for refund, statutes of limitations, IRS adjustments, confidentiality, appeals, collections and set offs for debts owed other state agencies.

Table 18 shows annual recycling surcharge collections from 1991-92 through 2001-02. Total collections during this time period were \$349.2 million. The 1999-00 collections of \$9.6 million represent residual payments under the former surcharge in tax years 1998 and earlier, and estimated payments under the new surcharge for tax year 2000.

**Table 18: Recycling Surcharge Collections (\$ in Millions)**

Year	Amount
1991-92	\$32.1
1992-93	36.8
1993-94	47.6*
1994-95	40.6
1995-96	41.6
1996-97	51.5
1997-98	53.6
1998-99	35.8
1999-00	9.6
2000-01	26.3
2001-02	<u>12.5</u>
Total	\$388.0

\*Includes one-time collections of an estimated \$7.9 million due to estimated payments.

---

## Recycling Tipping Fee

---

In 1999 Act 9, a recycling tipping fee was created as a revenue source to the recycling fund. The fee equaled \$0.30 per ton on all solid waste except high-volume industrial waste disposed of in landfills in Wisconsin. The tipping fee is effective for waste disposed of in landfills on or after January 1, 2000 and is assessed quarterly. Waste, other than high-volume industrial waste, that is subject to other tipping fees that existed prior to enactment of 1999 Act 9, is subject to the recycling tipping fees. In 2001 Act 16, the recycling tipping fee was increased from \$0.30 to \$3.00 per ton, effective with waste disposed of on or after January 1, 2002. Further information about landfill tipping fees deposited in the environmental fund can be found in Legislative Fiscal Bureau Informational Paper #60, "Contaminated Land and Brownfields Cleanup Programs."

Solid waste is excluded from the recycling tipping fee if it is disposed of by a nonprofit organization that provides services and programs for people with disabilities or that primarily serves low-income persons and that derives a portion of its income from the operation of recycling and reuse programs, if that waste is not commingled with waste that is subject to the tipping fee. State recycling tipping fees paid by municipalities are exempt from the budget test under the expenditure restraint program.

In 1999-00, the recycling tipping fee generated \$457,900 in revenue. The recycling tipping fee generated approximately \$2.0 million in 2000-01 and \$6.0 million in 2001-02. The 2001-02 recycling tipping fee collections include three quarters of revenue at the former \$0.30 per ton rate and one quarter of revenue at the \$3.00 per ton that went into effect on January 1, 2002. Recycling tipping fee revenues are estimated at \$21.6 million in 2002-03 under the \$3 fee.



---

**Council on Recycling**

---

The Council on Recycling was created in 1989 as a part-time advisory body appointed by the Governor to promote the efficient and prompt implementation of state programs relating to solid waste reduction, recovery and recycling and to advise and assist state and local agencies in the coordination of these programs and the exchange of information related to these activities. There are seven Council members serving business, government and the public-at-large. Each member serves a four-year term. The Council is staffed by DNR.

In addition to the general functions, the Council is directed to: (a) advise state agencies concerning the promulgation of administrative rules related to solid waste reduction, recovery and recycling; (b) advise DNR and the University of Wisconsin system concerning educational efforts and research related to these activities; (c) in cooperation with the packaging industry, recommend standards for recyclable packaging; (d) develop recommendations, advise and assist local officials and the automotive service industry to promote the recycling of used oil filters; (e) advise DNR concerning the development of a statewide plan for public service announcements that would provide information about recycling programs and the benefits of recycling; and (f) advise the Governor and the Legislature.

As directed by 1997 Act 243, the Council on Recycling submitted a report to the Legislature in December, 1999, that described the recycling of auto-

motive oil filters, and recommended methods to increase the recycling of automotive oil filters.

During 2001 and 2002, the Council: (a) maintained contact with state agencies involved in recycling, including the DNR, Department of Commerce, UW - Extension and Department of Corrections; (b) reviewed the effectiveness of educational activities that promote waste reduction, reuse and recycling; (c) created a Task Force on Computers and Other Electronics Recycling to discuss improving the recycling of computers and other electronics; (d) continued to propose legislation related to used oil filter recycling that the Council recommended in a 1999 report to the Legislature; (e) discussed the recycling of construction and demolition debris; (f) discussed the recycling of materials that are not banned from landfills; (g) reviewed the recycling efficiency incentive grant program and alternative compliance program created in 2001 Act 16; (h) reviewed the role of the Department of Corrections in electronics recycling; and (i) provided a forum for the discussion of issues affecting recycling programs in the state.

---

**DNR Education and  
Technical Assistance Responsibilities**

---

**Duties**

DNR is responsible for providing technical assistance and comprehensive public information. DNR is required to provide technical assistance to individuals, groups, businesses, state agencies,

counties and municipalities in all aspects of recycling, with an emphasis on documents and material that is easy to read and understand by the general public. This includes: (a) providing information about how to perform a study related to the composition of solid waste; (b) maintaining current estimates of the amount of components of solid waste generated by categories of businesses, industries, municipalities and other governmental entities; (c) providing information about how to manage solid waste consistent with the state's solid waste management priorities; and (d) providing technical assistance to local recycling programs.

DNR is required to collect, prepare and disseminate information, and conduct educational and training programs that assist in the implementation of the solid waste management programs. The educational programs must inform the public of the relationship between an individual's consumption of goods and services, the generation of different types and quantities of solid waste and the implementation of the solid waste management priorities. DNR is required to prepare educational programs on a statewide basis for the following audiences: (a) municipal, county and state officials and employees; (b) kindergarten through graduate students and teachers; (c) private solid waste scrap brokers, dealers and processors; (d) businesses that use or could use recycled materials or which produce or could produce products from recycled materials and persons who serve or support these businesses; and (e) the general public.

The policy development, administrative, planning, evaluation, markets directory and data management functions are performed by 13.0 SEG recycling fund positions in the Air and Waste Division in the central office and in five regional offices. Regional staff provide technical assistance and outreach to local governments on recycling and also process applications for the municipal and county grant program. The informational and educational functions are performed by the Division of Customer Assistance and External

Relations with 1.0 SEG recycling fund position in 2002-03. DNR also has accounting, purchasing and other financial management recycling-related responsibilities. In 2002-03, 0.5 SEG recycling fund position and associated funding is authorized for these purposes.

### **Activities**

DNR accomplishes its technical assistance, informational and educational responsibilities by establishing project work groups from various bureaus in DNR. In 2001-03, DNR worked with local and state elected officials and employees, students ranging in age from kindergarten to graduate student, teachers, solid waste brokers, dealers, processors and haulers, businesses that use or make products from recycled materials, other businesses and the general public. DNR focused on several activities that are listed below.

1. Prepared and provided fact sheets, newsletters, and publications related to general recycling issues. New publications addressed business and apartment recycling. A new poster focused on reduction, reuse and recycling in the workplace.
2. Maintained internet web sites for general audiences and youth to access to a variety of recycling materials and resources.
3. Updated the Wisconsin Recycling Markets Directory and established it as a searchable internet web directory.
4. Worked with groups of recycling organizations to develop administrative rules and coordinate program delivery.
5. Worked with Minnesota, Iowa and the U.S. Environmental Protection Agency to develop a used carpet recycling strategy.
6. Surveyed responsible units for their recycling communication needs.

7. Contracted with the University of Wisconsin to conduct a household recycling survey and with Franklin Associates to conduct a waste characterization and management study. DNR is analyzing the results of the survey and study and will convey the results to the public, responsible units, haulers and educators.

8. Contracted with Cascadia Consulting to conduct a waste sort study of municipal solid waste at 14 landfills across the state.

### Municipal Solid Waste Study

In 2001 Act 16, DNR was appropriated \$200,000 SEG in 2001-02 from the recycling fund for development of administrative rules for the recycling efficiency incentive grant program and the pilot program for alternative compliance with the effective recycling program requirements for materials to be recycled. DNR used \$150,000 of the funds to contract with Cascadia Consulting to conduct a municipal solid waste composition and quantification study. The objective of the study is to develop a representative and statistically sound estimate of the state's locally-generated residential and commercial municipal solid waste that is landfilled in Wisconsin.

During August through December, 2002, the contractor took 400 samples of municipal solid waste from 14 landfills throughout the state that collectively receive approximately 78% of the municipal solid waste generated in Wisconsin. Waste was sorted into approximately 60 material types. Study results will be available in the summer of 2003.

DNR anticipates that it will use information obtained from the study to establish a baseline for measuring the current and future progress in achieving waste management and recycling objectives. It will use the study data to analyze how successful local recycling programs have been in diverting banned materials from landfills and to

determine the average amounts and ranges of recyclable materials found in the waste stream.

---

## Other DNR Activities

---

### Newspaper Recycled Content Target and Fee

Current law requires printers and publishers of newspapers and some shopper guides to use newsprint that averages a mandated level of post-consumer recycled content. Table 19 shows the established targets for the percentage of recycled newsprint used by printers and publishers.

**Table 19: Target Newspaper Recycled Content Percentages**

Target Year	Percentage
1992 and 1993	10%
1994 and 1995	25%
1996 and 1997	35%
1998 through 2000	33%
2001 and 2002	37%
2003 and thereafter	40%

A newspaper recycling fee is assessed annually to the publisher of a newspaper that fails to meet the recycled content targets. Administrative rule NR 546 implements this provision. The amount of the newspaper recycling fee imposed on a publisher in any calendar year that the target is not met is 1% of the total cost of the newsprint used during the year multiplied by the recycling status factor, which is the target recycled content percentage minus the average recycled content percentage of the newsprint actually used.

The newspaper recycling fee does not apply to a publisher of a newspaper if: (a) the publisher documents that he or she is unable to obtain

sufficient recycled content newsprint; and (b) the newspaper has a circulation of less than 20,000, the publisher requests an exemption, and DNR determines that compliance with the target recycled content requirement would create a financial hardship for the publisher. Prior to January 1, 2001, DNR was required to exempt every publisher that met or exceeded 30% recycled content for the year (this provision does not apply after December 31, 2000).

Printers and publishers reported compliance with the requirements of the newspaper recycled content requirement as shown in Table 20. Fees totaling \$45,520 have been paid for 1992 through 2001. The fees are deposited in the recycling fund.

**Table 20: Printers and Publishers that Met and Did Not Meet Newspaper Recycled Content Requirement**

Year	Exceeded or Met Requirements	Did Not Meet Requirements	Fees Paid	Average Recycled Content
1992	69	2	\$353	23.4%
1993	78	0	0	28.9
1994	62	14	2,847	31.0
1995	48	26 *	610	27.3
1996	43	28 *	27,487	32.9
1997	58	14 *	1,323	37.6
1998	63	9*	2,750	41.9
1999	55	10*	696	42.6
2000	59	5	567	45.5
2001	45	13*	8,887	42.9

\*Printers and publishers received an exemption from the fee as follows: 21 in 1995, 8 in 1996, 9 in 1997, 9 in 1998, 2 in 1999 and 1 in 2001.

For 2001, of the 58 printers and publishers that reported their use of recycled content newsprint, 13 (22%) did not meet the mandated 37% post-consumer recycled content requirement. One of the 13 received an exemption from the fee.

**Waste Oil Collection and Recycling**

Any business that sells automotive engine oil to consumers is required to either: (a) maintain an engine waste oil collection facility for the

temporary storage of oil returned by consumers and post a sign to that effect; or (b) post at least one sign indicating the location and hours of operation of the nearest DNR-approved waste oil storage facility. If adequate approved waste oil storage facilities do not otherwise exist, local governments are required to provide these facilities. Anyone operating a facility for the recycling of engine waste oil must obtain a license and comply with all applicable requirements and regulations. Recycled waste oil must be clearly labeled "re-refined oil" or "reclaimed oil," depending upon the method of recycling.

DNR is required to conduct public information and educational programs regarding the availability of collection facilities, the merits of recycled oil, the need for using recycled oil to maintain oil reserves and the need to minimize the disposal of waste oil in ways harmful to the environment.

**Battery Collection and Disposal**

Retail sellers of lead acid (automotive-type) batteries are required to accept a used battery in exchange for each battery sold. If the retailer does not install the new battery and the customer returns the used battery at a later time, the retailer may require the customer to provide proof that the customer purchased a battery from the retailer. In addition, the retailer may charge a refundable deposit of up to \$5 on the sale of a battery. Retailers are required to accept used batteries when the consumer has not purchased a new battery from the retailer. Under these circumstances, a retailer may charge up to \$3 for each accepted battery and may refuse to accept more than two batteries in one day from any person. DNR is responsible for enforcement of the provisions.

**Recycling of Other Materials**

DNR received \$65,000 annually in federal Clean Water Act funds in federal fiscal years 1996

through 1999 for municipal mercury reduction programs. Current funding ends on September 30, 2003. Funds are being used to reduce the amount of mercury that is disposed of in landfills or wastewater treatment facilities. Examples of activities undertaken with grant funds include providing information to the public about mercury source reduction efforts, assisting municipalities in collecting mercury thermostats, encouraging recycling of dental mercury amalgam, assisting schools in eliminating mercury from school science laboratories, replacing mercury manometers on dairy farms with non-mercury versions and working with auto salvage businesses to collect and recycle mercury switches from scrapped automobiles and appliances.

DNR staff perform outreach and education related to recycling of fluorescent light bulbs (lamps). In 2002, DNR received a \$50,000 federal grant that will be distributed to five entities to increase outreach activities and recycling of fluorescent lamps.

Wisconsin, six other states, the U.S. Environmental Protection Agency, and carpet industry representatives signed a memorandum of understanding to promote carpet recycling. DNR staff work with businesses and municipalities to identify opportunities to promote recycling of used carpet.

---

## **University of Wisconsin System Activities**

---

### **Solid Waste Experiment Centers**

In 1989, the UW Board of Regents was authorized to establish one or more solid waste experiment centers for the purpose of developing, demonstrating, promoting and assessing the costs and environmental effects of alternatives to solid waste disposal. The College of Natural Resources

at UW-Stevens Point was designated as a Solid Waste Experiment Center in 1990, and in 1994, the Water Research and Education Center, College of Engineering at UW-Madison was designated a Center. Prior to 1997-98, the UW System had allocated GPR funding and position authority for these purposes. However, 1997 Act 27 converted this funding to segregated monies from the recycling fund. Funding for the Solid Waste Experiment Centers included in 2001 Act 16 was vetoed by the Governor. Subsequently, \$154,900 SEG annually was provided in 2001 Act 109. Due to the timing of enactment of Act 109, the Center expended approximately \$5,000 SEG in 2001-02 and is budgeted \$36,300 SEG in 2002-03, for a one-half time program manager position.

### **Solid Waste Research Council and Funding**

In 1989, the UW System was directed to conduct research into alternatives to solid waste disposal and the safe disposal of solid waste that cannot be recycled or composted. The Board was directed to appoint a Solid Waste Research Council to advise it regarding the awarding of solid waste research funds. The Council currently has 11 members representing nine UW campuses, UW-Extension and the UW System.

Annually, the Council solicits proposals that investigate alternative methods of solid waste management, including reduction of the amount of solid waste generated, the reuse and recycling of materials, composting, source separation and the disposal of household hazardous waste. Proposals are also sought for research into the development of products made from recycled materials and markets for those products. In 1997 Act 27, funding for the grants was converted from GPR to segregated monies from the recycling fund beginning in 1997-98. Due to the veto of funding in Act 16 and the timing of funding restoration in Act 109, the Solid Waste Research Council and the Board of Regents did not award any grants in 2001-02. For 2002-03, 16 recipients were awarded a total of \$118,600, including \$7,000 for four

undergraduate research projects.

### **UW-Extension Solid and Hazardous Waste Education Center**

The University of Wisconsin-Extension Solid and Hazardous Waste Education Center (SHWEC) with branches at UW-Madison, UW-Stevens Point, UW-Green Bay and UW-Milwaukee, was created in 1989. Positions within UW-Extension are authorized to provide statewide information on hazardous pollution prevention and to provide educational and technical assistance related to recycling. The Center also provides information on waste reduction; produces written materials, educational teleconference network programs, satellite conferences and video productions; and offers technical assistance to local governments and businesses on recycling, hazardous waste management, pollution prevention, source reduction and other cost effective waste reduction programs. (The Center's hazardous waste management and pollution prevention programs are not described in this paper.)

To carry out its programs, SHWEC receives funding from various sources. The Center is appropriated \$324,100 SEG from the recycling fund in 2002-03 for education and technical assistance in recycling and recycling market development. This funding supports 4.0 positions, including a recycling market specialist at UW-Green Bay, a commercial/industrial recycling waste reduction specialist at UW-Stevens Point, a recycling markets and source reduction specialist at UW-Madison and a program assistant. Workshops offered through the recycling program have included information on community recycling programs, composting, materials recovery facilities, community and industrial waste reduction and sector specific programs. The UW-Extension provided SHWEC with approximately \$61,000 GPR and \$15,000 PR in 2002-03 which funds 1.0 position for a waste reduction and management specialist at UW-Milwaukee.

In 2002-03, SHWEC received \$401,600 PR from various grants, contracts and revenue sources. This funding is used to provide technical assistance to industries, businesses, recyclers and other relevant entities to identify source reduction opportunities, methods to make products and packaging recyclable, appropriate recycling technologies, and the feasibility of using recyclable materials to manufacture other products.

---

### **Department of Administration Responsibilities**

---

The Department of Administration (DOA) is responsible for establishing guidance for state agencies and local governments in the following recycling areas: (a) statewide procurement specifications; (b) purchasing requirements; and (c) state agency source separation.

In general, the statewide recycling law uses state and local government procurement requirements to enhance market development. Since state and local governments collectively constitute one of the largest purchasers of goods in Wisconsin, procurement guidelines that favor recycled materials may assist in creating stable markets for goods made from such materials.

DOA and other designated state purchasing agents are required to write purchasing specifications that incorporate requirements for the purchase of products made from recycled materials and recovered materials if the use is technologically and economically feasible. The law covers the state and local purchase of paper and paper products, plastic and plastic products, glass and glass products, motor oil and lubricants, construction materials, furnishings and highway equipment. Specifications must consider, where practicable, recyclability and the ultimate disposition of purchased goods.

Where practicable, DOA, other state purchasing agents and local governmental units are also subject to purchasing requirements that include: (a) selecting bids for appropriate materials, supplies and equipment from a bidder who is the lowest lifecycle cost bidder; and (b) purchasing paper with an aggregate recycled or recovered content of fiber, by weight, of not less than 40%.

The statutes direct DOA to require each state agency and authority to separate for recycling, all materials subject to landfilling and incineration bans. These bans are described in Chapter 1.

---

### **Department of Transportation Activities**

---

The Department of Transportation (DOT) is required to use or encourage the use of the maximum possible amount of recovered materials, including, but not limited to glass, wastepaper, pavement and high-volume industrial waste (fly ash, bottom ash, paper mill sludge, foundry process waste or any other waste with similar characteristics that is approved by DNR) as surfacing material, structural material, landscaping material and fill for all highway improvements, if consistent with standard engineering practices.

DOT indicates that it is complying with these requirements in several ways, including, but not limited to, the following: (a) using fly ash in concrete pavements and road embankments; (b) using foundry sand as a fill in road embankments; (c) using bottom boiler ash in highways as a seal coat; (d) using recycled plastics for landscaping and other nonstructural purposes where plastic is the material of choice; (e) increasing the recycling of asphaltic concrete and portland cement concrete into new pavement; and (f) using glass, foundry slag and pottery cull as a fill material. DOT is working with DOA and the Council on Recycling to increase the use of recycled materials in highway

improvements.

For some of these materials, the Department requires their use in contracts. For other materials, however, DOT does not require their use, but instead has developed standards that specify the type and quantities of materials that may be used. In these cases, it is expected that if the materials can be supplied more cheaply than traditional materials, then the economic advantages resulting from lower prices will lead to increased usage.

---

### **Department of Agriculture, Trade and Consumer Protection Activities**

---

The Department of Agriculture, Trade and Consumer Protection (DATCP) administers requirements related to labeling for plastic containers, recycled content of plastic containers, heavy metals content in packaging, truth in labeling and battery collection and disposal. DATCP estimates that it is using less than 0.2 FTE to administer these provisions, and most of its efforts are focused on issues of product compliance with these requirements.

#### **Plastic Container Labeling**

Administrative rule ATCP 137 establishes labeling requirements for plastic containers, which provide information needed by operators of materials recovery programs to facilitate recycling or reuse of the containers. Each container is required to be labeled with a number and initials based on its composition. DATCP is authorized to grant a variance from the labeling requirements for containers for which labeling is not technologically possible. The variance is for up to one year and is renewable. Blister packs, which are defined as containers with a rigid backing to which a plastic film or preformed semirigid plastic covering is affixed, are exempt from labeling requirements.

DATCP has not received any requests for variances to the labeling requirement. Occasionally the Department does receive requests for letters of non-objection for containers because of plastic resin content, and DATCP has issued such letters if the product is compatible with recycling streams.

### **Plastic Container Recycled Content**

State law requires that plastic containers used for products sold at retail consist of at least 10% recycled or remanufactured material. This applies to containers required to be labeled under state law for plastic resin composition. It does not apply to containers for food, beverages or drugs unless the federal Food and Drug Administration has approved the specific use of recycled or remanufactured material. In a 1996 survey of manufacturers, DATCP found reasonable industry acceptance of current minimum recycled content requirements, but also encountered instances of noncompliance due to costs and poor container integrity for certain product contents, such as hazardous substances.

### **Heavy Metals Content in Packaging**

The law directs that with a few exceptions, "a manufacturer or distributor may not sell a package, packaging material or packaging component with a total concentration of lead, cadmium, mercury plus hexavalent chromium" that exceeds 100 parts per million. A violation of these provisions is subject to a forfeiture of up to \$200. A 1993 DATCP report found most packaging materials being used and sold in the state are in compliance with the statute. Exceptions included some cans using solder, certain labeling inks and enamels and specialized packaging such as lead wrapping for photographic film.

### **Truth in Labeling**

Administrative rule ATCP 137 sets standards on the content of products represented as "recycled," "recyclable" or "degradable" and

establishes that no person may label or represent any product in violation of these standards. The standards are intended to be consistent, to the greatest extent practicable, with nationwide industry consensus standards. Any person who labels or represents a product in violation of these standards is subject to a forfeiture of not less than \$100 nor more than \$10,000 for each violation. Since 2001, DATCP has received one complaint of improper labeling. After DATCP alerted the company of this problem, it was quickly corrected.

### **Battery Collection and Disposal**

1993 Act 74 established collection and disposal regulations for certain batteries containing mercury. DATCP maintains a list of certified batteries. No person may sell a zinc carbon battery that is manufactured after July 1, 1994, or an alkaline manganese battery that is manufactured after January 1, 1996, unless the manufacturer has certified to DATCP that the battery contains no mercury that was intentionally introduced. No person may sell an alkaline manganese button cell battery that is manufactured after January 1, 1996, unless the manufacturer has certified to DATCP that the battery contains no more than 25 milligrams of mercury.

Waste mercuric oxide batteries, other than mercuric oxide button cell batteries, may not be treated, stored or disposed of except at approved collection sites. An operator of an approved collection site must recycle all collected waste mercuric oxide batteries unless no reasonable alternative exists. No person may sell a mercuric oxide, other than a mercuric oxide button cell battery, unless the manufacturer does all of the following: (a) identifies an approved collection site to which people may take used mercuric oxide batteries for recycling or proper disposal; (b) informs all purchasers of the battery of the collection site and the prohibition on disposal; (c) informs all purchasers of a telephone number that may be called to obtain information about returning the batteries for recycling or proper



disposal; and (d) informs DATCP and DNR of the collection site and telephone number. DNR has general enforcement authority over the disposal and recycling provisions.

---

### **Department of Commerce Activities**

---

The Safety and Buildings Division in the Department of Commerce administers a provision in the state commercial building code to require that any person engaged in constructing or remodeling a public building provide adequate space in or adjacent to, the building for the separation, temporary storage and collection of materials subject to the 1995 landfill and incineration bans. This requirement applies to the following types of building projects: (a) constructing a public building; (b) increasing the size of a public building by 50% or more; or (c) altering 50% or more of the existing area of a public building which is 10,000 square feet or more in area.

---

### **Department of Corrections Activities**

---

The Department of Corrections administers a computer recycling program under which inmates salvage, repair, and upgrade donated computers. The program is designed to reduce the number of computers deposited in landfills and to provide computers to state agencies and non-profit organizations at a low cost. Under the program, inmates clean, reformat, and match components for recycling and remanufacturing, test electronic equipment for operating condition, and demanufacture any unsalvageable equipment for parts recycling or proper disposal.

In 2001-02, the program employed 41 male inmates at the Racine Youthful Offender Correctional Facility, eight male inmates at the Jackson Correctional Institution, 16 male inmates at the Redgranite Correctional Institution, and 11 female inmates at the Taycheedah Correctional Institution. During 2001-02, approximately 32,400 pieces of computer equipment were donated to the program and 430 complete computer units (computer processing unit, monitor, keyboard, and mouse) were refurbished for sale. In 2001-02, 294 computers were sold for prices ranging from \$0 to \$150, depending on the age and quality of the computer and included software. The sale of computers generated approximately \$36,100 in 2001-02. In addition, Corrections collected approximately \$40,700 from the sale of scrap computer materials.

In 1997 Act 237, the Department of Corrections was provided a one-time \$409,800 grant in 1998-99 from the recycling fund with 4.0 PR one-year project positions for the computer recycling program. In 1999 Act 9, funding and 4.0 SEG two-year project positions were provided for the program as a direct appropriation from the recycling fund, rather than a grant. In 2001 Act 16, a portion of the program was converted to PR funding and 4.0 permanent positions (3.0 SEG positions and 1.0 PR position) were provided. In 2001-02, total expenditures were \$489,400 (\$390,500 SEG and \$98,900 PR). Total budgeted funding for the program in 2002-03 is \$386,000 (\$335,400 SEG and \$50,600 PR).

---

### **Tax Exemptions**

---

There are two types of sales and use tax exemptions targeted at certain recycling and waste reduction-related activities.

**Diaper Services and Cloth Diapers.** Charges by diaper services for cleaning and providing cloth diapers and the sale, lease, rental, storage, use or other consumption of cloth diapers are exempt from sales and use tax.

**Motor Vehicles and Machinery and Equipment Used for Recycling Activities.** Gross receipts from the sale of and the storage, use or other consumption of certain motor vehicles and machinery and equipment used in connection with recycling are exempt from sales and use tax. In order to be exempt, the motor vehicles and machinery and equipment must be used exclusively and directly with waste reduction or recycling activities which reduce the amount of solid waste generated or must be used to reuse, recycle, compost or recover energy from solid waste. In addition, the motor vehicles must be vehicles that are not required to be licensed for road use.

practical means of enforcing collection standards (such as reducing grant amounts in future years).

The LAB made the following findings related to costs of recycling programs: (a) costs of municipal residential recycling average \$95 per ton, whereas disposal costs average \$85 per ton; (b) among Midwestern states, only Wisconsin and Minnesota provide state financial assistance for the ongoing support of municipal recycling programs; (c) the relationship between the size of a responsible unit's recycling grant and the amount of recycling occurring in that municipality is relatively weak; (d) the wide variability among communities' per capita recycling costs suggests that local decisions, such as whether to provide curbside collection service and how often to provide that service, have the greatest effect on local recycling costs; (e) curbside collection costs are higher per capita than drop-off collection, but are generally lower per ton of recyclable material collected; (f) by requiring all communities to recycle the same materials, regardless of the percentage of the local waste stream these materials may represent, state recycling law may result in inefficiencies that increase costs at both the state and local levels; (g) local decisions about yard waste management can significantly affect recycling costs; and (h) DNR has not met statutory audit requirements to audit at least 5% of municipal recycling grants. The LAB report recommended that DNR apply the one-half time auditor position supported by the recycling fund entirely to audits of municipal recycling grants. (2001 Act 16 subsequently deleted the one-half time auditor and changed the audit requirement so that DNR is required to annually review 5% of responsible unit effective programs.)

The LAB found that in DNR's Bureau of Waste Management, staff time records did not report recycling activity for 3.6 of the 12 recycling positions authorized for the Bureau. Those 3.6 positions represent 18.9% of DNR's authorized total of 19 recycling fund positions. The LAB report suggested that the Legislature may wish to require DNR to justify its need for the current number of

---

## 2001 Legislative Audit of Recycling Programs

---

In January, 2001, the Legislative Audit Bureau (LAB) published an evaluation of state recycling programs. The LAB reviewed: (a) the effectiveness of recycling efforts in the state; (b) costs of recycling efforts and how costs vary among communities; (c) relationships between local expenditures, state grants and recycling rates; and (d) the number and function of state staff supported by the recycling fund.

The LAB findings related to program effectiveness included: (a) in 1999, over one-fourth of responsible units failed to meet effective recycling program per capita recyclable collection standards; and (b) the only means DNR has of sanctioning responsible units for failure to meet collection standards is to revoke effective program status and, effectively, permission to dispose of waste within Wisconsin, therefore there is no

authorized recycling-funded positions. In response to the audit, DNR submitted a report to the Co-Chairs of the Joint Committee on Finance, on March 30, 2001, that described the allocation of 12 recycling positions in the waste management program.

The LAB report listed several recycling issues for possible consideration by the Legislature, including: (a) addressing a possible deficit in the recycling fund (the recycling tipping fee was increased from 30¢ to \$3 per ton in 2001 Act 16); (b) developing possible new funding mechanisms for state support of recycling (\$1.9 million in efficiency incentive grants is provided beginning in 2002-03);

(c) determining if state recycling laws should remain in their current form or be modified (the pilot program for an alternative method of compliance with effective program criteria was created in 2001 Act 16); (d) creating a new grant formula to distribute funds to municipal recycling programs (formula modifications approved by the Legislature were item-vetoed by the Governor in 2001 Act 16); and (e) shifting the focus of state recycling staff efforts from technical assistance for municipal recycling programs to increasing efficiency and cost effectiveness of local programs or focusing on non-municipal solid waste (such as construction and demolition debris).

---

## APPENDICES

---

Several appendices provide additional program information.

- Appendix I lists the 2001-03 appropriations for recycling programs funded from the segregated recycling fund.
- Appendix II shows cumulative revenues and expenditures for the recycling fund from 1990-91 through 2001-02.
- Appendix III describes the major state statutory policies related to solid waste reduction, reuse, recycling, composting and resource recovery.
- Appendix IV describes exceptions to the 1991, 1993 and 1995 landfill and incineration bans.
- Appendix V describes the required components of an effective recycling program.
- Appendix VI describes DNR's authority to grant a variance from the effective recycling program criteria.
- Appendix VII summarizes major provisions related to waste generated outside of Wisconsin.

**APPENDIX I**

**Major Solid Waste Recycling and Waste Reduction Programs:**

**APPROPRIATIONS FUNDED FROM THE SEGREGATED RECYCLING FUND**

	2001-02	2002-03	Authorized Positions 2002-03
<b>Administrative Appropriations</b>			
<i>Commerce</i>			
143 (1)(st) Recycling market development board; operations	65,800	65,800	1.0
<i>Corrections</i>			
410 (1)(qm) Computer recycling	335,500	335,400	3.0
<i>Natural Resources</i>			
370 (2)(hq) Recycling administration	1,094,800	877,300	12.0
(3)(mr) Recycling enforcement and research	111,700	111,700	1.0
(8)(iw) Statewide recycling administration	183,400	182,100	0.5
(9)(is) Statewide recycling administration	440,800	487,400	5.0
<i>Revenue</i>			
566 (1)(q) Recycling fees administration	231,800	231,800	1.0
<i>University of Wisconsin System</i>			
285 (1)(tb) Extension recycling education	336,900	336,900	4.0
(1)(tm) Solid waste research and experiments	<u>154,900</u>	<u>154,900</u>	<u>0.5</u>
Subtotal	\$2,955,600	\$2,783,300	28.0
<b>Financial Assistance Appropriations</b>			
<i>Natural Resources</i>			
370 (6)(br) Waste reduction and recycling demonstration grants	300,000	500,000	
(6)(bq) Municipal and county recycling grants	19,500,000	29,500,000	
(6)(bv) Recycling efficiency incentive grants	0	1,900,000	
(6)(bw) Wheelchair recycling project	<u>0</u>	<u>20,000</u>	
Subtotal	\$19,800,000	\$31,920,000	
<b>TOTAL RECYCLING FUND APPROPRIATIONS</b>	<b>\$22,755,600</b>	<b>\$34,703,300</b>	

## APPENDIX II

### Recycling Fund Cumulative Revenues and Expenditures 1990-91 Through 2001-02

	Amount (In Millions)	Percent
<b>REVENUES</b>		
Recycling Surcharge	\$388.09	86.57%
Transfer from the General Fund	29.70	6.62
Interest Income and Miscellaneous	22.12	4.94
Recycling Tipping Fee	<u>8.41</u>	<u>1.87</u>
Total Revenues	\$448.32	100.00%
<b>EXPENDITURES AND ENCUMBRANCES</b>		
<b>Program Administration and Education</b>		
<i>Administration</i>		
Recycling activities	\$0.24	0.05%
<i>Agriculture, Trade and Consumer Protection</i>		
Recycling products regulation	1.12	0.26
<i>Commerce</i>		
Recycling development and rebate program administration	0.82	0.18
Recycling market development board; operations	1.68	0.38
<i>Corrections</i>		
Computer recycling	1.23	0.28
<i>Natural Resources</i>		
Park and forest recycling activities	0.34	0.08
Recycling--administration	12.04	2.74
Recycling--enforcement	0.50	0.12
Recycling grants--administration	0.83	0.19
Statewide recycling administration	10.23	2.33
Statewide recycling education	5.04	1.15
<i>Revenue</i>		
Recycling fees administration	3.21	0.73
<i>Wisconsin Technical College System</i>		
Recycling programs	0.02	0.01
<i>University of Wisconsin System</i>		
Extension recycling education	3.58	0.82
Research on tin can scrap	0.06	0.01
Solid waste research and experiments	0.76	0.17
<b>Grant, Loan, Rebate and Financial Assistance Programs</b>		
<i>Commerce</i>		
Recycling loans & grants -- assistance, including minority business recycling	3.41	0.78
Recycling rebates program -- assistance	10.81	2.46
Recycling market development board; assistance	22.16	5.05
Technology and pollution control and abatement grants and loans	0.40	0.09
<i>Natural Resources</i>		
Environmental aids - municipal & county recycling grants	293.81	66.94
Environmental aids - waste reduction and recycling demonstration grants	9.85	2.25
Environmental aids - lake states wood utilization consortium	0.21	0.05
<b>WHEDA</b>		
Transfer--development reserve fund	0.68	0.16
Transfer—brownfields redevelopment	4.00	0.91
Transfer to General Fund	<u>51.71</u>	<u>11.78</u>
<b>TOTAL EXPENDITURES</b>	<b>\$438.89</b>	<b>100.00%</b>
Cumulative Revenues less Cumulative Expenditures/Encumbrances	\$ 9.43	
Less 2001-02 Year End Continuing Balances	\$0.74	
Available July 1, 2002, Fund Balance	\$ 8.69	

## APPENDIX III

### State Solid Waste Reduction, Reuse, Recycling, Composting and Resource Recovery Policies Section 287.05, Wisconsin Statutes

1. Maximum solid waste reduction, reuse, recycling, composting and resource recovery is in the best interest of the state to protect public health, to protect the quality of the environment and to conserve resources and energy.

2. Encouragement and support should be given to individuals, collectors, handlers and operators of waste facilities to separate solid waste at the source, in processing or at the time of disposal to facilitate reuse, recycling, composting or resource recovery.

3. Research, development and innovation should be encouraged to improve design, management and operation of solid waste reduction, reuse, recycling, composting and resource recovery systems and to improve the processes, to lower operating costs and to provide incentives for the use of these systems and operations and their products.

4. Encouragement should be given to initiatives of current recyclers which facilitate reuse and recycling through separation, collection and processing of substantial volumes of scrap and waste material, reducing the amount of mixed solid waste that is disposed of in landfills or burned without energy recovery.

5. Recovery of energy from solid waste is in the public interest where it replaces the use of nonrenewable fuels and it is done in a state-approved program that protects public health and welfare and the environment.

6. Implementation of solid waste reduction, reuse, recycling, composting and resource recovery

systems and operations requires the involvement and cooperation of individuals, state and local governments, schools, private organizations and businesses. State government should rely to the maximum extent feasible on technical and financial assistance, education and managerial practices. Necessary regulations should be developed with maximum flexibility.

7. Solid waste reduction, reuse, recycling, composting and resource recovery efforts should be planned and coordinated in order to maximize beneficial results while minimizing duplication and inefficiency.

8. It is necessary for the state to occupy a regulatory role to achieve the policy goals and it is necessary to give municipalities and counties powers to adopt waste flow control ordinances to require the use of recycling and resource recovery facilities.

9. Solid waste reduction, reuse, recycling, composting, and resource recovery systems and operations are preferable to land disposal.

10. Developers and users of land disposal facilities should not become committed to land disposal so that reuse, recycling, composting and resource recovery systems and operations may be implemented rapidly.

11. The state encourages the following priorities of solid waste management: (a) reduction; (b) reuse; (c) recycling; (d) composting; (e) recovery of energy from solid waste; (f) land disposal; and (g) burning of solid waste without energy recovery.

## APPENDIX IV

### Exceptions to the 1991, 1993 and 1995 Landfill and Incineration Bans Section 287.07, Wisconsin Statutes

1. The 1995 bans do not apply to incidental amounts of banned materials contained in solid waste generated in a region that has an effective recycling program and collected for disposal or treatment. An effective recycling program is required to prohibit disposal of any materials subject to the 1995 bans that have been separated for recycling. This exception recognizes that some incidental amount of recyclable materials may be found in solid waste collected for disposal, and that even a good recycling program will not be effective 100% of the time at capturing all banned materials. Banned materials may become unrecyclable with use, for example, when newspapers are used for window cleaning or plastic milk jugs are used for waste oil collection. Broken glass bottles are another example of a banned item which is no longer recyclable. This exception to the 1995 bans does not apply to materials that have been separated for recycling or to solid waste generated in a region that does not have an effective recycling program.

2. A "grandfather" clause exists for incinerators with a state solid waste license or air pollution permit in effect before May 11, 1990 (the effective date of 1989 Act 335). This exception allows the incinerator to convert to fuel or burn combustible materials (tires and the various types of paper and plastic) listed in the 1995 bans generated in the area served by the facility as of January 1, 1993, or generated by the owner of the facility. Under present DNR administrative rules, the operator of an incinerator with a design capacity of less than 500 pounds of waste per hour generally is not required to obtain a solid waste license or air pollution permit; these incinerators are thus not eligible for this exception.

3. The 1991, 1993 and 1995 bans do not apply to a facility that burns solid waste as a supplemental fuel if the solid waste provides less than 30% of the facility's heat input.

4. Burning of medical wastes in medical waste incinerators or other incinerators approved by DNR to burn medical waste is generally allowed. Landfilling of medical waste that has been treated to render the waste noninfectious is also generally allowed.

5. DNR may grant, to a responsible unit, an exception to the 1995 bans for up to one year in the event of an unexpected emergency condition. The exception would also eliminate the effective recycling program requirements to separate the materials for recycling and the prohibition on their disposal.

6. DNR may grant a waiver to the 1993 bans to allow the burning of brush or other clean woody vegetative material that is no greater than six inches in diameter at wood burning facilities that have air pollution permits or solid waste facility licenses from DNR that authorize the burning.

7. The 1993 and 1995 bans do not apply to the beneficial reuse of a material within a landfill if the use is approved in the landfill's plan of operation.

8. DNR may grant a waiver or conditional waiver to any of the 1995 bans if the applicant shows that the recyclable material has been contaminated and cannot feasibly be cleaned for recycling and DNR determines that granting the waiver or conditional waiver will not impede progress toward meeting the goals of the state solid



waste policies. DNR may not grant a waiver or conditional waiver for material that has been intentionally or negligently contaminated.

9. DNR may grant a waiver or conditional waiver to the 1995 bans related to foam polystyrene packaging and plastic containers other than polyethylene terephthalate (PETE or #1) or high density polyethylene (HDPE or #2) if DNR determines that recycling of the material is not feasible or practical in light of current markets or available technologies and that granting the waiver or conditional waiver will not impede progress toward meeting the goals of the state solid waste policies. The waiver or conditional waiver would continue until one year after DNR determines that markets and technologies are available for recycling of the material subject to the waiver. Issuance of a waiver also eliminates for effective recycling programs both the requirement to

separate the plastics and the prohibition on their disposal. On October 4, 1996, DNR issued a waiver to the disposal and collection requirements for #3-#7 plastic containers and polystyrene foam packaging. This waiver permits polyvinyl chloride (PVC or #3), low density polyethylene (LDPE or #4), polypropylene (PP or #5), polystyrene (PS or #6) and other/multi-layer (#7) containers and polystyrene foam packaging, to be landfilled or incinerated in the state. DNR granted previous variances in 1995 and 1996 for one year periods.

10. A responsible unit may not prohibit the beneficial reuse of a material by a landfill if the beneficial reuse of the material is approved by DNR in the landfill's plan of operation.

11. A responsible unit may not prohibit the landfilling or incineration of any material for which DNR has issued a waiver to the 1995 bans.

## APPENDIX V

### Twelve Required Components of an Effective Recycling Program Section 287.11, Wisconsin Statutes

1. A public education component.
2. A requirement that occupants of residential, commercial, retail, industrial and governmental (including federal) buildings either separate from their postconsumer waste the materials subject to the 1995 bans or treat these wastes at a facility which will recover those materials from commingled solid waste. Postconsumer waste is defined to be solid waste other than: waste generated in the production of goods, hazardous waste, construction or demolition waste, scrap automobiles or high-volume industrial waste.
3. A system for collecting separated recyclable materials from single-family residences.
4. A system for the processing and marketing of recyclable materials collected under the program.
5. A requirement that owners of building containing five or more dwelling units do the following: (a) provide containers for separated materials; (b) notify tenants of the recycling program; and (c) provide for the collection and recycling of separated materials.
6. A requirement that owners of commercial, retail, industrial and governmental facilities: (a) provide containers for separated materials; (b) regularly notify all users and occupants of the recycling program; and (c) provide for the collection and recycling of separated materials.
7. A prohibition on the landfilling or burning of any material subject to the 1995 bans that has been separated for recycling. (The plastics subject to the waiver of the 1995 bans are not subject to the prohibition.)
8. Provisions for the management of postconsumer waste not separated for recycling under the program, consistent with the solid waste management priorities.
9. Adequate enforcement of the above components.
10. Possession of the equipment or means necessary to implement the public education, separation, single-family residence collection, marketing and enforcement components described above.
11. Other criteria established by rule by DNR.
12. A reasonable effort through the implementation of the program components described above to reduce, to the maximum extent feasible, the amount, by weight, of each material subject to the 1995 bans that is generated in the region and disposed of in a landfill, converted into fuel or burned without energy recovery.

## APPENDIX VI

### Variations from Effective Program Criteria

If markets are not available for any material subject to the 1995 bans, DNR may grant a variance for that material from effective program requirements specifying that occupants of residential, commercial, retail, industrial and government buildings separate the 1995 banned items and that the separated materials be banned from landfilling or incineration. This variance may be granted at a request of the responsible unit with an effective recycling program or on DNR's initiative. Variances may apply to one or more responsible units with an effective recycling program. Variances are limited to one year in length, but there is no limit on the number of times that a variance may be granted.

The variance may be granted if DNR determines that the "cost of selling processed material" exceeds either: (a) \$40 per ton, adjusted for inflation since 1989; or (b) the "cost of disposing of processed material." These terms are defined as follows:

**1. Processed material.** A component of solid waste that has been collected, transported to a

waste processing facility and prepared for sale to a broker, dealer or manufacturer.

**2. Cost of disposing of processed material.** The gross cost of transferring processed material to a solid waste disposal facility and disposing of the processed material, including any disposal costs not paid through fees charged by the facility.

**3. Cost of selling processed material.** The net cost, including storage costs, of selling processed material to a broker, dealer or manufacturing facility, plus any cost of transporting the processed material from the waste processing facility to the destination specified by the buyer, less the portion of any state financial assistance received attributable to the processed material.

Since the test for granting a variance is based on the costs of selling and disposing of processed material, the test does not incorporate the costs of collecting, transporting to a processing center or processing the waste material.

## APPENDIX VII

### Summary of Major Out-of-State Waste Legal Provisions

The recycling statutes in effect prior to 1997 required an out-of-state local governmental unit to seek DNR approval of its recycling program as an effective program in order to dispose of solid waste in Wisconsin. However, in *National Solid Waste Management Assoc. v. George Meyer*, 63 F. 3d 653 (1995), the U.S. Seventh Circuit Court of Appeals ruled that the following requirements for landfilling or incinerating out-of-state waste in Wisconsin violated the Commerce Clause of the U.S. Constitution: (a) that the local government in whose jurisdiction the waste is generated must implement an effective recycling program; (b) that the determination that an out-of-state recycling program is an effective program must be promulgated in rules; and (c) that the state in which the waste is generated must implement an effective landfill siting program.

1997 Act 27 made several changes related to the disposal of out-of-state waste in Wisconsin, all of which were to be effective on October 1, 1999. The Act included three provisions intended to respond to the federal court rulings by: (a) retaining the requirement that in order for solid waste generated in another state to be disposed of in Wisconsin, the out-of-state local government's recycling program must be an effective recycling program, but allowing the local government to apply the components of the program only to those waste materials that are disposed of in Wisconsin; (b) repealing the requirement that the determination that an out-of-state local government has an effective recycling program be promulgated in rules; and (c) repealing the requirement that in order for out-of-state waste to be disposed of in

Wisconsin, the state in which it is generated must have an effective recycling program.

Under 1997 Act 27, out-of-state local governments would be eligible to obtain variances from certain effective program requirements and exceptions to the landfill and incinerator bans for which in-state responsible units are currently eligible. The Act also exempted out-of-state local governments from the effective recycling program requirements to: (a) prohibit the disposal within their jurisdiction of materials separated from waste for recycling; and (b) manage waste not separated for recycling in compliance with Wisconsin's recycling policy.

In December, 1997, the constitutionality of the revised law was challenged in court. In *National Solid Waste Management Assoc. v. George Meyer*, No 97-C-851-S (W.D. Wis, June 1, 1998), the U.S. District Court for the Western District of Wisconsin struck down the law without a trial, and agreed with the plaintiffs' contention that the law violates the Commerce Clause, the Due Process Clause and principles of state sovereignty set out in the U.S. Constitution. The court found that all of the objections to the prior law that were raised by the U.S. Seventh Circuit Court of Appeals apply equally to the revised law. On July 1, 1998, the State of Wisconsin appealed the decision, asking that the case be remanded to the district court for either a trial on the disputed facts in the case or summary judgment in favor of the state. In January, 1999, the U.S. Seventh Circuit Court of Appeals upheld the decision (165 F. 3d 1151 (1999)).