



# Contaminated Land and Brownfields Cleanup Programs

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# Contaminated Land and Brownfields Cleanup Programs

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

The Department of Natural Resources (DNR) is responsible for implementation of the state's direct response hazardous substances cleanup programs, establishment and administration of cleanup standards for contaminated groundwater and soil and implementation of most federal programs in cooperation with the Environmental Protection Agency (EPA). DNR has established, since 1995, a consolidated organizational structure under the Remediation and Redevelopment program, which integrates all aspects of the cleanup process.

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

surface water are restored to a condition that is safe.

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

Several statutory changes have been made in recent years to promote the cleanup and development of brownfields sites, which are abandoned, idle or underused industrial or commercial properties, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination.

The Department of Commerce (Commerce) and Department of Agriculture, Trade and Consumer Protection (DATCP) also administer contaminated land cleanup programs. For more information, see the Legislative Fiscal Bureau informational papers entitled, "Petroleum Environmental Cleanup Fund Award (PECFA) Program," "Environmental Improvement Fund" (for a description of the land recycling loan program), "State Economic Development Programs Administered by the Department of Commerce" (for a description of the brownfields grant program), and "Agricultural Chemical Fees and Programs" (for a description of the agricultural cleanup program).

*FEDERAL CLEANUP INITIATIVES ADMINISTERED BY DNR*

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

The Environmental Protection Agency (EPA) is working with states on an initiative called One Cleanup Program, under which states would coordinate the federal programs described in this chapter with state-authorized programs. EPA and DNR signed a memorandum of agreement in November, 2006, to implement One Cleanup Program. Under the program, DNR and EPA coordinate which agency takes the lead in cleanup at specific sites, how cleanup rules will apply, and how DNR will take the lead in reviewing requests for approval of the cleanup.

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**Superfund Cleanup Program**

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The federal Superfund program was established in 1980 by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986. The Superfund program was up for consideration of reauthorization in 1995. Congress has not reauthorized the program, but has continued to fund the program with federal funding primarily from general purpose revenues and cost recoveries. Superfund includes three cleanup components: (a)

an emergency response program for sites posing an immediate and substantial danger; (b) a site assessment program to evaluate potential Superfund sites; and (c) a remedial action program for longer-term cleanup remedies.

**Emergency Response Program**

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

EPA emergency response actions generally include three types of situations: (a) classic emergencies are situations where the release of a hazardous substance requires action at the site within minutes or hours of the incident; (b) time critical actions are situations where, after an evaluation of the site is completed, EPA determines that removal of the hazardous substance must begin within six months; and (c) non-time critical actions are infrequent situations where, after an evaluation of the site, EPA determines that work can be postponed for at least six months after the incident due to the low risk.

In Wisconsin, EPA has provided emergency response assistance with almost \$3.2 million at 61 sites in 2008 through November 1, 2010. EPA also provided letters of support to the federal Oil Spill Liability Trust Fund for reimbursement of \$146,000 in DNR costs in 2008 through 2010 for the Department's responses to oil spills which impacted federal navigable waters and the responsible party was unwilling, unknown, or unable to initiate the response. The federal fund is managed by the United States Coast Guard.

### **Site Assessment Program**

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

After the site has been nominated, EPA considers the priority of the site and decides whether it should be proposed for inclusion on the NPL. If proposed, following a public comment process, a site is listed on the NPL as a Superfund site. As of October, 2010, 1,282 sites nationwide are on the NPL. Thirty eight (3%) of these sites are in Wisconsin. (In addition, six Wisconsin sites have been deleted from the NPL and one site has been proposed for listing.) Appendix I lists the Wisconsin sites and their locations.

EPA may also propose that a site be listed on the NPL. In the summer of 1998, EPA proposed listing a 39-mile stretch of the Fox River from Lake Winnebago to Green Bay on the NPL because of contamination from PCBs (polychlorinated biphenyls). EPA postponed a decision to list the site on the NPL as long as the responsible parties (several paper companies) make progress in the design

and implementation of a remedial action. Since 2004, dredging and removal of PCB-contaminated sediments has been conducted in several areas of Little Lake Butte des Morts and the Lower Fox River from Appleton to Green Bay. Dredging, removal, and capping of contaminated sediments are expected to continue over the next decade. Dewatered sediments from dredging are being disposed of in a Wisconsin landfill. Sediments with high levels of PCBs are being hauled out-of-state to a federally-regulated hazardous waste landfill.

Before a site is listed, DNR attempts to identify the responsible party or parties and have that party undertake the cleanup process. If these efforts are successful, the case is managed by DNR under the state's environmental repair program and the site is generally not placed on the NPL. If these efforts are unsuccessful or the responsible party is not known, the Superfund listing process for that site may continue. After a site is listed, EPA contracts with a firm to conduct a search for potentially responsible parties to fund the remedial action. If a responsible party is found after listing on the NPL, the responsibility for funding the cleanup is transferred from Superfund to the responsible party.

Under the Superfund law, EPA may establish liability of a responsible party if it can prove that the party disposed of hazardous substances at a particular site and that those substances are now being released from the site. At sites with multiple responsible parties, Superfund can require all identified responsible parties to fund the remedial action. If some responsible parties cannot be identified, or are identified and cannot pay (for example, are bankrupt), the remaining responsible parties may be held liable for all of the cleanup costs. For example, if a responsible party caused 50% of the contamination, and no other responsible parties are identified who can pay, that party may be held liable for 100% of the cleanup costs.

EPA has also implemented a Superfund Alternatives Program, under which one or more of the responsible parties for a site may undertake a

cleanup and pursue recovery of cleanup costs from other responsible parties. As long as the responsible parties who are working on the site continue to do so, EPA does not add the site to the NPL. Under this program, EPA, rather than DNR, takes the lead role in administering the cleanup. As of October, 2010, 10 Wisconsin sites are participating in this program.

### **Remedial Action Program**

EPA and DNR will negotiate with potentially responsible parties to fund the investigation and cleanup before spending any federal or state dollars on the site. Responsible parties are currently partially or fully financing investigations and cleanup at 26 Wisconsin Superfund sites, Superfund revenues are financing work at 11 Wisconsin sites, and the potentially responsible party and Superfund are jointly funding work at one site. Appendix I lists these sites. The remedial investigation, design and remedial action activities have been completed at 34 of the 38 Wisconsin sites.

These 34 sites are in the operation and maintenance (O&M) phase of actions, which means the actions needed to continue to operate and maintain the cleanup remedy that has already been constructed. Examples of O&M are operating pumps to extract contaminated groundwater as part of a groundwater treatment system, pumping leachate and operating a methane extraction flare at a landfill where a cap has been installed over contamination, operating water treatment systems or analyzing samples from groundwater monitoring wells.

To date, if a site is financed with Superfund dollars, EPA has generally taken the lead role, although DNR has assumed the lead cleanup role at three of the 11 sites funded with federal Superfund dollars, and the operation and maintenance of work at one other site. In cases where the responsible parties agree to pay for the necessary work, those parties may request that DNR take the lead role. However, if DNR takes the lead role in a case financed by a responsible party who fails to provide for appropriate cleanup, the lead may need to

be renegotiated after EPA commits funding for that site.

### **Investigation and Feasibility Study**

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

### **Cleanup**

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

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

*Other State and Federal Requirements.* Under Superfund, remedial actions must meet the substantive requirements of all other federal and state environmental laws and state facility siting laws, if applicable. These include the maximum contaminant levels established under the federal Safe



Drinking Water Act, administrative code Chapter NR 140 groundwater quality criteria, NR 103, 104 and 105 water quality criteria, the administrative code NR 700 series environmental cleanup criteria and federal Clean Water Act water quality criteria. Remedial actions selected under Superfund are specifically exempt from the administrative permit requirements of applicable laws for all on-site activities. EPA may waive standards under specified circumstances.

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

### **Federal Funding**

Federal funding for the Superfund program came from various taxes on crude oil and chemical feedstocks, cost recoveries from site operators, generators and current and past owners, interest and general revenues. Superfund taxing authority expired on December 31, 1995, and had not been reinstated as of January 1, 2011.

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

waste sites operated by a state or its political subdivisions, Superfund pays 50% and the state pays 50%.

### **State Funding**

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

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

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

**Table 1: State and Federal Expenditures for Wisconsin Superfund Cleanup Projects through June 30, 2010**

Expenditures	State Share	Federal Share
Pentawood Products (Burnett County)	\$1,457,000	\$13,113,000
Schmalz Landfill (Calumet County)	336,800	3,030,800
Stoughton City Landfill (Dane County)	1,293,100	1,293,100
Oconomowoc Electroplating Co. (Dodge County)	1,704,000	21,496,000
Eau Claire Municipal Well Field	175,700	5,868,000
Onalaska Municipal Landfill (La Crosse County)	4,200,000	4,620,000
Mid-State Disposal Landfill (Marathon County - Special agreement with potential responsible party, federal expense not required)	992,000	0
N.W. Mauthe Co. (Outagamie County)	626,200	5,652,000
Scrap Processing Inc. (Taylor County)	<u>61,100</u>	<u>549,900</u>
<b>Total</b>	<b>\$10,845,900</b>	<b>\$55,622,800</b>
<b>Committed but not yet Expended</b>		
Pentawood Products	\$843,000	\$7,587,000
Oconomowoc Electroplating Co.	495,500	0
Onalaska Municipal Landfill	130,000	0
N.W. Mauthe Co.	313,100	2,809,000
Scrap Processing Inc.	<u>122,200</u>	<u>1,100,100</u>
<b>Total</b>	<b>\$1,903,800</b>	<b>\$11,496,100</b>

remedial action to the municipality, defined as the cost savings to the municipality resulting from implementation of the remedial action and measured as a percentage of the most recent annual budget.

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### Leaking Underground Storage Tank Program

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

Prior to 2001, DNR acted as the lead state agency in all cleanup actions and was the state recipient of the EPA LUST grant. Beginning with the

federal year 1999 grant, a portion of the federal grant was transferred to the Department of Commerce to administer cleanup at medium- and low-risk petroleum sites. Beginning in federal fiscal year 2001, DNR and Commerce received separate LUST grants from EPA.

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

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

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

The Department of Commerce (Commerce) has

responsibility for regulation and enforcement of storage tank standards and financial responsibility requirements in the UST program. The UST regulations are established in administrative rule Chapter Comm 10 to regulate flammable and combustible liquids. However, state law also requires Commerce to regulate tanks not included under federal regulations (aboveground tanks, farm and residential motor fuel underground storage tanks with less than 1,100 gallons and heating oil underground storage tank systems). Commerce regulates approximately 182,100 underground petroleum storage tank systems under federal and state requirements and 33,900 aboveground tank systems under state requirements.

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

### LUST Sites

Approximately 182,100 former and existing petroleum product underground storage tanks were regulated by Commerce under federal and state requirements as of November, 2010. Of this total, approximately 52,100 tanks are active in-use, of which 12,200 are regulated under federal underground storage tank requirements and the LUST program. Cleanup standards for LUST sites are established by DNR under the state hazardous substances spills law and under the administrative rule NR 700 series and Chapter NR 140. All LUST sites are regulated under the state hazardous substances spills law.

DNR administers the cleanup at high-risk petroleum LUST sites and sites with non-petroleum

contamination. Commerce administers the cleanup at medium- and low-risk petroleum sites. Most LUST sites will be eligible for PECFA reimbursement for cleanup of petroleum contamination. As of June 30, 2010, there were 17,035 petroleum-contaminated sites in the reconciled databases of both DNR and Commerce. Of the total, 1,335 were open sites, of which DNR administered 984 and Commerce administered 351. Cleanup at 15,700 petroleum-contaminated sites had been completed, of which DNR administered 8,351 sites and Commerce administered 7,349. In addition to the reconciled sites, there are 4,743 petroleum-contaminated sites (including 647 open and 4,096 closed sites) in the DNR database that have not yet been matched to a site in the Commerce database.

### Funding

Federal funding provides 90% of the cost of implementing the LUST program and the state must pay the remaining 10%. Federal funding comes from a 0.1 cent per gallon excise tax on motor fuels. Table 2 shows the amount of federal LUST program funding received by Wisconsin during the ten years from state fiscal year 2001-02 through 2010-11. This includes \$9.2 million granted to DNR and \$8.3 million granted to Commerce during the ten years.

**Table 2: Federal Leaking Underground Storage Tank Funding for Wisconsin, 2002 Through 2011**

State Fiscal Year	Federal Funding DNR	Federal Funding Commerce
2001-02	\$862,600	\$797,200
2002-03	862,600	847,200
2003-04	916,700	847,200
2004-05	1,001,800	927,200
2005-06	984,000	797,200
2006-07	947,300	814,700
2007-08	953,100	814,700
2008-09	941,600	822,200
2009-10	852,000	797,200
2010-11	<u>884,900</u>	<u>797,200</u>
Total	\$9,206,600	\$8,262,000

In 2010-11, federal LUST funding is sufficient to support 8.0 DNR program staff (seven in Remediation and Redevelopment and one in Enforcement) and 9.9 Department of Commerce staff. The majority of site cleanups under the LUST program are funded by responsible parties and are reimbursed by the state PECFA program.

In addition to federal funding for LUST program administration, EPA provided \$6,381,000 to DNR under the American Recovery and Reinvestment Act of 2009 (ARRA) for cleanup of contamination at LUST sites where the contamination is from petroleum. DNR made awards to six communities in 2009 and 2010, totaling \$6,290,512, as shown in Table 3. In December, 2010, DNR was in the process of selecting a project to receive the remaining \$90,488.

**Table 3: DNR ARRA Awards for Leaking Underground Storage Tanks**

Municipality	Grant Amount
Beaver Dam, City	\$32,133
Kenosha, City	975,000
Marinette County	105,057
Mauston, City	157,033
Milwaukee, City	3,021,289
Stetsonville, Village	<u>2,000,000</u>
Total	\$6,290,512

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### Federal Brownfields Grant Program

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The federal Small Business Liability Relief and Brownfields Revitalization Act was signed into law by the President on January 11, 2002. The main provisions of the Act included: (a) codify and expand EPA's brownfields program by authorizing funding for assessment and cleanup of brownfields properties; (b) exempt certain contiguous property owners and prospective purchasers from Superfund liability; (c) authorize funding for state response programs; and (d) provide limited Superfund liability for certain properties cleaned up un-

der state programs.

The federal brownfields legislation authorizes up to \$200 million per year nationwide for grants for brownfields assessment and cleanup, of which up to \$50 million per year (or 25% of the appropriated amount) would be set aside for brownfields with petroleum contamination. The American Recovery and Reinvestment Act of 2009 (ARRA) provided almost \$80 million in additional funds for federal brownfields grants.

In the eight federal fiscal years 2003 through 2010, EPA awarded a total of \$685 million in grants nationwide in the following categories: (a) brownfields assessment grants of up to \$200,000 each over two years to inventory, assess and plan at brownfields sites; (b) brownfields revolving loan fund grants to grantees that would capitalize a revolving loan fund and provide subgrants to carry out cleanup activities at brownfields sites owned by the subgrant recipient; and (c) brownfields cleanup grants of up to \$200,000 each over three years to carry out cleanup activities at brownfields sites owned by the grant recipient.

Under the federal brownfields grant program, in the eight federal grant cycles 2003 through 2010, the federal grants have included \$34.18 million to 22 grantees in Wisconsin, with the grants equaling 5.0% of the funds awarded nationwide. The grant amounts and recipients are shown in Table 4. The amounts shown include grants awarded with regular program funding and with ARRA funds. The EPA deadline for submission of applications for the 2011 grant year was October, 2010. It is anticipated EPA will announce 2011 grant recipients by June, 2011.

2003 Wisconsin Act 314 authorized DNR to enter into an agreement with EPA to establish and administer a federally-funded brownfields revolving loan program under which DNR would make loans or grants for the cleanup of brownfields. The act also authorized DNR to, at the request of another governmental entity, administer funds received from EPA by the other governmental entity

**Table 4: Federal Brownfields Grants, Federal Fiscal Years 2003 Through 2010**

	Assessment	Revolving Loan Fund	Cleanup	Total
WI DNR	\$1,800,000	\$8,000,000		\$9,800,000
Ashland, City	200,000			200,000
Ashwaubenon, Village	400,000			400,000
Baraboo, City	600,000		\$600,000	1,200,000
Brown County Planning Commission	400,000			400,000
Delavan, City			1,400,000	1,400,000
Green Bay, City	400,000			400,000
Kenosha, City	400,000			400,000
Madison, Town	200,000	1,000,000		1,200,000
Marinette, City	200,000			200,000
Marinette County	200,000			200,000
Milwaukee, City Redevelopment Authority	2,400,000	6,450,000	3,580,000	12,430,000
Oshkosh, City	800,000		1,000,000	1,800,000
Prairie du Chien, City	200,000			200,000
Racine, City	200,000	1,000,000		1,200,000
Red Cliff Band of Lake Superior Chippewas of WI			151,900	151,900
Ripon, City	200,000			200,000
St. Croix Chippewa Indians of WI	200,000		200,000	400,000
West Allis, City	400,000		400,000	800,000
West Allis Community Development Authority			400,000	400,000
Wisconsin Rapids, City	400,000			400,000
<b>Total</b>	<b>\$10,000,000</b>	<b>\$16,450,000</b>	<b>\$7,731,900</b>	<b>\$34,181,900</b>

for the establishment of a brownfields revolving loan program. The act also created the necessary state appropriations to receive the federal funds, make loans or grants, receive funds from another governmental entity, receive repayments of loans made with federal funds, and make loans or grants from the loan repayments.

Under 2007 Wisconsin Act 188, local governments that borrow under the DNR brownfields revolving loan program were authorized to issue municipal obligations or promissory notes in anticipation of receiving funding under the program. The obligations must be repaid within 10 years, or, if refinanced, within 20 years. The promissory notes must be repaid within 20 years.

DNR and the Wisconsin Brownfields Coalition, a partnership with the Wisconsin Departments of Commerce and Administration, and the state's nine Regional Planning Commissions, developed the Ready for Reuse Loan and Grant Program with \$8.0 million EPA awarded to DNR in 2004 and sub-

sequent years for a revolving loan fund. Local governments were able to submit applications for funds to DNR beginning in February, 2006. Local governments may use the ready for reuse grants or loans for: (a) cleanup of contamination from hazardous substances or hazardous substances commingled with petroleum; or (b) cleanup of petroleum contamination that is not eligible for reimbursement under the PECFA program. Funds may not be used for site assessment or investigation.

Up to 40% of funds under the Ready for Reuse program may be used for grants. The remaining 60% is available for loans with an interest rate of 0%. The maximum grant is \$200,000 per property. Grants are available for projects that can be completed in two years. Applicants must be a local government or tribe. The applicant can not have caused the contamination and must not have liability for environmental contamination under federal CERCLA provisions. The program gives preference to projects that have a DNR-approved site investigation report and a complete remedial action plan.

**Table 5: DNR Ready for Reuse Program Under Federal Brownfields Grant Program Awards As of October 1, 2010**

	Number of Awards	Award Amount
<b>Loan Recipient</b>		
Appleton, City	1	\$300,000
Fond du Lac, City	1	352,477
Prairie du Chien, City	<u>1</u>	<u>682,500</u>
Subtotal	3	\$1,334,977
<b>Grant Recipient</b>		
Bishop's Creek Community Development Corporation (Milwaukee)	1	\$125,200
Delafield, City	1	109,362
Dodge County	1	121,050
Elkhorn, City	1	152,504
Family Services of Northeast Wisconsin (Green Bay)	1	51,250
Kaukauna, City	1	30,000
La Crosse Industrial Park Corporation	1	250,000
Mauston, City	1	200,000
Merrill, RA	1	142,646
Milwaukee, City RA	3	670,000
Neenah Community Development Authority	2	429,469
Oshkosh RA	2	400,000
Prairie du Chien, City	1	172,500
Prairie du Chien, RA	2	344,917
Superior, City	1	250,000
Waunakee, Village	<u>2</u>	<u>136,814</u>
Subtotal	22	\$3,585,712
Total	25	\$4,920,689

RA = Redevelopment Authority

DNR makes decisions on funding Ready for Reuse projects as applications are received. As of October 1, 2010, DNR had awarded \$4.9 million in financial assistance, including 22 grants for a total of \$3,585,712 and three loans for a total of

\$1,334,977, and had received \$172,400 in loan repayments. Funding recipients and amounts are shown in Table 5, and include awards made with regular and ARRA funds. The Department was also reviewing one application totaling \$1.8 million.

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### Hazardous Waste Cleanup Program

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

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

There are 128 facilities in Wisconsin subject to RCRA corrective action provisions. Most of the facilities are being addressed under the NR 700 rule series, if a release of a hazardous substance has occurred.

*STATE-FUNDED CLEANUP PROGRAMS ADMINISTERED BY DNR*

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

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**Remediation and Redevelopment  
Organizational Structure**

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

DNR Remediation and Redevelopment central office staff are assigned to one of three sections: (a) the Fiscal and Information Technology Section oversees the fiscal management of state and federal funding sources, manages the environmental re-

pair state-funded response program, and coordinates information technology initiatives; (b) the Policy and Technical Resources Section is responsible for the development of policy, rules, and guidance documents, provides technical expertise to support program implementation, and serves as the contact with EPA on federally-funded cleanup programs; and (c) the Brownfields and Outreach Section develops policy associated with encouraging the cleanup and reuse of contaminated property, manages state and federal grants and loans, coordinates the advisory Brownfields Study Group, manages statewide outreach, and coordinates brownfields programs with other agencies.

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

The remediation and redevelopment program utilizes six statewide standing teams to promote integration, assure program continuity, involve DNR staff throughout the state, involve customers and support the increased decentralization to regional operations. The standing teams include: (a) hazardous substances spills; (b) outreach; (c) land recycling; (d) standards and streamlining; (e) automation; and (f) petroleum. The program also utilizes ad hoc teams to address specific issues such as dry cleaner cleanup and Superfund site assessment.

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## Environmental Cleanup Requirements

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

The NR 700 administrative rule series went into effect in 1994 and 1995, with subsequent revisions, as a comprehensive framework to govern environmental cleanups conducted by DNR, persons who caused or possess environmental contamination, or other parties conducting a cleanup. The rules govern cleanups conducted under the spills, environmental repair and abandoned containers laws administered by DNR. The rules also govern cleanups under the drycleaner environmental response program administered by DNR, the PECFA program and brownfields grant program administered by the Commerce and the agricultural management program administered by the Department of Agriculture, Trade and Consumer Protection (DATCP).

The NR 700 rules address specific steps in the cleanup process, including hazardous substance discharge notification, site investigation, remedial action selection, design, construction and operation and case closure. A key aspect of the NR 700 rule series is the option of using natural attenuation for remedial action. Natural attenuation means allowing naturally-occurring physical, chemical or biological processes to degrade contamination over a period of time. There is no requirement for post-

closure monitoring. (This has been done to address PECFA program cost control issues.) DNR has published technical guidance regarding use of natural attenuation for cleanup of petroleum contamination in groundwater.

The rules contain criteria DNR will use to prioritize sites, especially sites that need state funds for cleanup. The rules also contain criteria to be used when DNR cost-shares with the federal government at Superfund sites.

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

### Groundwater

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

Chapter 160 of the statutes requires DNR to establish, by administrative rule, a preventive action limit (PAL) for each substance for which an en-



enforcement standard is established. The PAL is a contamination limit that is more stringent than the groundwater enforcement standard and is intended as a warning level to allow action to be taken prior to violation of the enforcement standard. Each state agency that regulates activities that may affect the groundwater is required to promulgate rules that establish the range of responses that the agency may take or require the party responsible for the contamination to take if the PAL is exceeded.

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

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

A DNR administrative rule, effective November 1, 2001, created a geographic information system (GIS) registry that includes information about contaminated sites that have been closed with a groundwater enforcement standard exceedance. The rule requires that sites with residual groundwater contamination in excess of the NR140 enforcement standard be placed on a GIS registry. The site information is available on the DNR Internet web site. A DNR administrative rule, effective August 1, 2002, requires inclusion on the GIS registry of sites approved for closure with residual soil contamination.

As of October 1, 2010, 7,416 sites have been placed on the GIS registry of closed sites with a groundwater enforcement standard exceedance, residual soil contamination, or both. Of this total, 5,243 are PECFA-eligible. Of the 7,416 sites: (a) 2,217 sites have a groundwater enforcement standard exceedance, of which 1,855 are PECFA-eligible; (b) 1,924 sites have soil contamination only, of which 868 are PECFA-eligible; and (c) 3,275 sites have both groundwater and soil contamination, of which 2,520 sites are PECFA-eligible.

## **Soil**

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

tive rules also include standards for the one-time landspreading of petroleum contaminated soils at certain suitable locations, with natural degradation of the contaminants by soil microorganisms.

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## **Hazardous Substance Spills Program**

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

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

### **Responsible Party**

The responsible party is required to take necessary action to restore the air, land or water to the condition it was in before the release occurred to the extent practicable, in compliance with the hazardous substances spills law. Responsible parties take the appropriate action in response to a discharge in 97-98% of all reported spills. DNR can take action if the responsible party is not known or

does not take appropriate action. The Department uses a contract with private contractors in geographic zones of the state to respond to 2-3% of spills per year. The NR 700 administrative rule series establishes which actions are necessary to respond to the discharge.

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

### **DNR Response Options**

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

## Number and Type of Reported Spills

Approximately 930 spills are reported to DNR annually, including 999 spills reported in 2008, 852 reported in 2009, and 700 in 2010 as of October 1, 2010. DNR estimates that approximately 63% of the spills are of hazardous substances that are petroleum products, 8% involve industrial chemicals such as acid, base, paint and bleach, 6% are agricultural chemicals such as fertilizers, pesticides, herbicides, and insecticides, 6% are wastewater, 6% are animal by-products, and the remaining 11% are volatile organic compounds, solvents, metals, and other substances. The largest percentage of spills in 2008 through October, 2010, occurred on roadways (28%), private property (11%), business, commercial or retail properties (7%), industrial facilities (6%), farms or rural locations (6%), gas stations and auto repair properties (5%), surface water (5%), and public property (4%).

DNR responded to 54 spill sites from 2008 through October 1, 2010, with a total DNR response cost of approximately \$325,500 from the environmental fund. When DNR is able to identify the responsible party for the spill, the Department recovers all or part of its costs. The cost recovery process can take a few years, depending on the timing and results of legal actions related to the spill.

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### Abandoned Containers Actions

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

to the air, land or water.

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

DNR responded to 39 abandoned container sites from 2008 through October 1, 2010, that had abandoned containers holding hazardous substances, with a total DNR response cost of approximately \$60,000 from the environmental fund. Most of the abandoned containers are found in the most populated areas of the state, including the Milwaukee and Fox Valley regions.

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### State-Funded Response Actions

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

sites.

### **Responsible Party**

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

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

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

The liability provisions of Superfund, s. 292.11 (spills statute) and s. 292.31 (the environmental repair statute) require the responsible party to pay all of the cleanup costs (even if it caused 50% of the contamination) if no other responsible parties are identified, and if the responsible party is unable to differentiate between the contamination caused by the responsible party and the contamination caused by other parties. This differs from the local

governmental unit negotiation process under s. 292.35 of the statutes, which would require the responsible party to pay only 50% of the cleanup costs if it caused 50% of the contamination if an agreement has been reached or a recommended agreement has been issued. DNR state-funded response actions use the stricter liability provisions of the spills statute and the environmental repair statute.

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

Generally, sites that do not score high enough on EPA's hazard ranking system to become a Superfund site, but are considered a significant risk to human health, safety or the environment, are considered for state-funded response. Because of delays in the Superfund process, the Department also identifies some potential Superfund sites for state-funded response action when it determines that postponing action at these sites could significantly increase the magnitude of an existing problem.

### **Inventory of Contaminated Sites**

Under the environmental repair statute, DNR is required to compile, maintain and make available to the public a database of sites or facilities and other properties at which the discharge of a hazardous substance or other environmental pollution has been reported to the Department. DNR is required to update the database regularly.

DNR has developed information about sites with contamination or sites with a history of activity related to solid waste disposal or contamination. In addition, the Department developed and maintains a comprehensive database called BRRTS (Bureau for Remediation and Redevelopment Tracking System) that allows people to search for

information about sites that may have contamination. This is available to the public on the Department's Internet web site as "BRRTS on the Web." All known contaminated sites are listed on the BRRTS database.

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

DNR has a system of evaluating contaminated sites which includes environmental and socioeconomic criteria to determine whether sites are high-, medium-, or low-priority for purposes of selecting sites to be funded under state-funded response. The system is also used to determine reimbursement funding priority (high-, medium- or low-category) in the dry cleaner environmental response program. DNR has not codified the system in administrative rule.

### **Investigation and Remedial Action**

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

The process of investigation and cleanup is

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

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

Since 1988, DNR has initiated response actions at hundreds of contaminated sites. The level of DNR response depends on the amount of contamination. If there is a relatively low level of contamination, DNR may conduct initial sampling of private water supplies, groundwater, or soil to verify that no significant threat exists. If there is a moderate to high level of contamination, DNR will fund or oversee a larger investigation to determine the degree and size of contamination. After the investigation is completed, an appropriate remedial action plan is developed. The response can vary from monitoring the contamination level, to a larger active cleanup, with long-term operation and maintenance of a remedy, and a case closure. Sometimes emergency actions are necessary to remove the contamination. An alternative to a DNR-lead cleanup is a partnership with a municipality through an intergovernmental agreement, where DNR and the municipality each agree to undertake specific components and costs of the cleanup.

In addition, there are several hundred sites where remedial action currently underway is being financed by responsible parties. DNR is overseeing a portion of that work, in part based on the overall

priority of the case.

Appendix II lists the state sites that had been, or were being, investigated or cleaned up under the state-funded response action program through October, 2010. The list does not contain the sites where responsible parties are financing cleanup and DNR is overseeing the work. (Some of these sites are also listed in the Superfund national priority list.) DNR anticipates that during the 2009-11 biennium it will expend approximately \$5 million for cleanup activities at these sites. Expenditures are made from the state-funded response environmental segregated (SEG) appropriation and general obligation bonding authority described in subsequent sections.

### **State-Funded Response Appropriation**

DNR administers a state-funded response appropriation through the environmental management account of the environmental fund. The appropriation had \$6,267,000 available for expenditures in the 2009-11 biennium. This included expenditure authority of \$2,292,700 in 2009-10 and \$2,292,700 in 2010-11, encumbrances at the beginning of 2009-10 totaling \$565,100 and an unencumbered carry-in balance of \$1,116,500. Expenditures from the appropriation totaled \$1,478,600 in 2008-09 and \$966,000 in 2009-10. During 2008-09 and 2009-10, a total of \$3,238,900 was transferred from the appropriation account to the general fund as part of overall agency budget reduction requirements. Expenditures averaged \$1.8 million annually for the five years from 2005-06 through 2009-10. This is a decrease from the \$3.0 million in annual expenditures for the five years from 2000-01 to 2004-05.

The appropriation is used for DNR expenditures related to: (a) DNR-lead cleanups of contaminated sites where the responsible party is unknown or can not or will not clean up the site (see Appendix II for a list of sites with cleanup funded from the appropriation); (b) the state share at certain Superfund site cleanups; (c) the state match to federal LUST expenditures; (d) emergency spill re-

sponse and cleanups; (e) response and cleanup of abandoned containers of hazardous substances where the responsible party can not be identified; (f) \$3 per capita payments to certain municipalities for groundwater monitoring and equipment purchases; (g) provision of temporary emergency water supplies; (h) DNR-lead remedial actions at abandoned privately-owned landfills; (i) DNR-lead cleanups resulting from responsible party payment of court settlements; and (j) limited term employee costs related to DNR-lead cleanups.

### **Municipal Monitoring Cost Reimbursements**

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

Reimbursements are paid out of the state-funded response appropriation from the environmental fund before any other appropriation expenses are paid. Between 1987 and 2004, almost \$1.8 million in payments were made to 12 local governments. No payments have been made since 2004. DNR indicates the reason is all operating municipally-owned landfills have developed adequate routine monitoring of groundwater, and municipal landfills that are not currently operating generally have monitoring in place.

### **Provision of Temporary Emergency and Permanent Water Replacement Supplies**

DNR provides temporary emergency water supplies to persons with water supplies that have been adversely affected by contamination from a site or facility subject to cleanup requirements un-

der the hazardous substance spills statute or environmental repair statute. Provisions are contained in administrative rule NR 738. Temporary emergency water supplies include potable water obtained in bottles, by tank truck or by other similar means, or a temporary connection to an existing water supply, supplied at a capacity sufficient to satisfy water use functions impaired by the contaminated water supply.

The environmental fund pays for temporary emergency water supplies if the following criteria are met: (a) the source of potable water is from a contaminated well or contaminated water supply; (b) the contamination is known or is suspected by DNR to be from environmental pollution or a hazardous substance discharge subject to the spills statute (s. 292.11) or the environmental repair statute (s. 292.31); (c) water sampling is conducted in accordance with specific requirements; and (d) DNR or the Department of Health Services has issued a drinking water advisory notice for the water supply. DNR has paid a cumulative total of approximately \$255,300 as of October 1, 2010, for temporary emergency water supplies, including \$5,612 in 2008-09 and \$7,289 in 2009-10.

The environmental fund also pays for permanent replacement water supplies instead of temporary emergency water supplies under certain circumstances. DNR may grant a variance to the rule in order to allow payment of a portion of the costs of a permanent replacement water supply if: (a) the owner of the contaminated well demonstrates financial hardship; and (b) DNR determines that the cost of the permanent replacement water supply would create an unreasonable financial hardship for the well owner. DNR has paid approximately \$717,000 from 1984 through October 1, 2010, for 207 permanent replacement water supplies where there was a demonstrated financial hardship for the well owner. This included expenditures of \$60,128 for 12 wells in 2008-09, \$33,539 for 7 wells in 2009-10, and \$11,100 for two additional wells from July 1, through October 1, 2010.

## **General Obligation Bonds for Remediation of Contaminated Land and Sediments**

DNR has been authorized \$47 million in general obligation bonding to fund the state's cost-share for cleanup of federal Superfund and LUST sites and state-funded cleanups under the environmental repair statute (s. 292.31) and hazardous substances spills statute (s. 292.11). Bonding authority can be used for public purpose projects such as cleanup of contaminated groundwater, soils and sediments, and activities such as investigation, remedial design and cleanup of a specific site when the responsible party is unknown, unable or unwilling to fund the cleanup. Bonding authority cannot be used for general preliminary investigations or cleanups funded by responsible parties.

DNR has expended or encumbered \$44.8 million of the available \$47 million in bonding authority as of October 1, 2010. DNR has committed or is expecting to commit, by the end of 2010-11, approximately \$1 million in additional bonding authority for work at sites where investigative work has been completed and remedial design work is completed or underway, and implementation of the selected remedy may occur.

DNR has also been authorized \$7 million in general obligation bonding for contaminated sediment cleanup in Lake Michigan or Lake Superior or a tributary of one of the two lakes. As of October 1, 2010, DNR has expended or encumbered \$5.9 million of the available \$7 million.

Beginning in 2001-02, payment of the debt service for the general obligation bonding authority for both remedial action and contaminated sediment cleanup was converted from general purpose revenue (GPR) to a segregated (SEG) revenue appropriation from the environmental management account of the environmental fund. In 2009-10, \$3,868,000 SEG was expended on general obligation bond debt service for remedial action and contaminated sediment cleanup. In 2010-11, debt service costs are anticipated to be \$4.4 million. Table 6 shows debt service costs for the two purposes from 2003-04 through 2010-11.

**Table 6: General Obligation Bond Debt Service Costs for Remediation of Contaminated Land, Sediments, and Harbor Cleanup**

Year	Contaminated Land and Sediment	Harbor Sediment Cleanup
2003-04	\$1,601,400	
2004-05	2,182,000	
2005-06	3,006,900	
2006-07	3,216,300	
2007-08	3,531,300	
2008-09	3,698,100	
2009-10	3,868,000	\$381,800
2010-11 est.	4,352,700	635,200

**General Obligation Bonds for Great Lakes Harbor Cleanup**

DNR has been authorized \$22 million in general obligation bonding authority (including \$5 million in the 2009-11 biennial budget), with debt service costs paid from the environmental management account, for removal of contaminated sediment from Lake Michigan or Lake Superior or their tributaries if the project is in a water body that DNR has identified, under the federal Clean Water Act, as being impaired and the source of the impairment is contaminated sediment. Under the original bonding authorization in 2007 Act 20, the funding could only be used if federal funds are provided for the project under the Great Lakes Legacy Act. Under 2009 Act 28, the expanded authorizing language was included. As of October 1, 2010, DNR has expended or encumbered \$7.1 million of the available \$22 million.

The first use of funding under this provision was an \$8.4 million allocation of bonding for the required match of 35% of project costs to obtain \$15.6 million in federal Great Lakes Legacy Act funds to complete a \$24 million PCB-contaminated sediment dredging project in the Kinnickinnic River in Milwaukee in October, 2009. The second use of bonding is to use \$12 million to provide a 35% match for an estimated \$34.2 million in project costs, to obtain \$22.2 million in federal Great Lakes Legacy Act funds for a project to clean up a PCB-contaminated sediment site in the Estabrook Park Impoundment on the Milwaukee River north of the

Estabrook Dam in 2010 and 2011. Project costs are estimated at \$24 million for Phase 1. It has not been determined whether the remaining \$10.2 million in state and federal funds will be sufficient for Phase 2. There is \$1.6 million in remaining unallocated bonding in the program.

In 2009-10, \$381,800 SEG was expended on general obligation bond debt service for contaminated Great Lakes harbor sediment cleanup. In 2010-11, debt service costs are anticipated to be \$635,200. Table 6 shows debt service costs for this purpose since 2009-10.

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**Liability Exemptions and Assurances**

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Several limitations on liability for cleanup of contamination under the hazardous substances spills law were enacted in 1993 Wisconsin Act 453, and modified in several subsequent legislative sessions. The provisions were established in order to encourage persons to voluntarily cleanup contamination and restore properties to productive use. These provisions are generally intended to encourage the cleanup and redevelopment of brownfields. Brownfields are abandoned, idle or underused industrial or commercial properties, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination.

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

**Voluntary Party Limited Liability Provisions**

Parties who conduct voluntary cleanups of contaminated property are able to limit their environmental liability if they enter DNR’s voluntary party



liability exemption (VPLE) program and meet certain conditions. The provisions are found in s. 292.15 of the Statutes. Voluntary parties may obtain an exemption from further remedial action on the property. The Department of Justice is prohibited from commencing an action under the federal Superfund law against the voluntary party if the voluntary party takes certain actions to investigate and clean up the property.

A "voluntary party" is defined as any person who submits an application to obtain an exemption from liability and who pays the required fees to offset DNR costs for providing the voluntary party exemption certification.

### **Exemption Process**

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

The voluntary party's exemption from liability continues in the future even if any of the following happen: (a) future statutes, rules or regulations impose greater responsibilities on property owners;

(b) the voluntary party's remediation is not completely successful; (c) the contamination from a hazardous substance that is the subject of remediation is discovered to be more extensive than anticipated by the voluntary party and DNR; (d) if the voluntary party does not own or control the property, the person who owns or controls the property fails to maintain and monitor the property as required by DNR; or (e) if the voluntary party does not own or control the property, the person who owns or controls the property fails to allow DNR and other specified parties to enter the property to determine whether natural attenuation has failed and to take action to respond to the discharge if natural attenuation has failed. The exemption applies to the voluntary party's successor if the successor maintains the property and, if the voluntary party obtained the DNR certification by fraudulent means, the successor was unaware of the fraud.

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

A voluntary party is also exempt from liability under the hazardous substances and solid waste

laws if there exists a hazardous substance in groundwater on a property in a concentration that exceeds a groundwater enforcement standard and DNR determines that natural attenuation will restore groundwater quality in accordance with DNR rules. Natural attenuation means the reduction in the mass and concentration in groundwater of a substance, and the products into which the substance breaks down, due to naturally occurring physical, chemical and biological processes, without human intervention.

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

that DNR has determined will be brought into compliance with DNR rules through natural attenuation; (g) if the voluntary party owns or controls the property, the voluntary party maintains and monitors the property as required by DNR; (h) the voluntary party does not engage in activities that are inconsistent with the maintenance of the property; (i) the voluntary party has not obtained the DNR certification by fraudulent methods; and (j) if the voluntary party owns or controls the property, the voluntary party allows DNR and other specified parties to enter the property to determine whether natural attenuation has failed and to take action to respond to the discharge if natural attenuation has failed. This provision does not exempt the property from any lien for recovery of cleanup costs incurred by DNR prior to the date that DNR issues the natural attenuation certification.

DNR promulgated rules related to requirements for insurance at sites where voluntary parties are using natural attenuation in cases of groundwater contamination and a liability exemption is sought. The rules are found in Chapter NR 754, which took effect in March, 2001. As of October 1, 2010, DNR has received insurance premiums and fees totaling \$366,800 for 25 sites, and has issued certificates of completion for all 25 sites.

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

contribute to the discharge of a hazardous substance and will not interfere with or increase the costs of cleaning up the property; and (d) the owner of the property agrees to cooperate with DNR to address problems caused by hazardous substances remaining on the property.

The exemption or partial exemption from liability for a voluntary party does not apply to: (a) certain hazardous waste treatment, storage or disposal facilities; (b) to certain licensed solid waste facilities; and (c) to solid waste facilities or waste sites at which active remediation is required. The exemption or partial exemption does not exempt the property from any lien for recovery of costs filed by DNR prior to the date DNR issues a certificate of exemption or partial exemption.

### **Participation**

As of October 1, 2010, DNR received 308 applications for participation in the voluntary party liability program. Of this total, 98 properties have received a certificate of completion and received an exemption from DNR from future liability for the site. Ten were denied because the site or applicant was not eligible for the voluntary party liability exemption, and 74 applications were withdrawn. The remaining 128 properties are in the process of completing the investigation and cleanup needed to receive a certificate of completion.

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

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

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

### **Local Government and Economic Development Corporation Liability**

Local governments and certain economic development corporations are not liable for cleanup under the hazardous substances spills and solid waste management law for discharges of hazardous substances on or originating from property they acquired in certain ways, or if the contamination resulted from an unlicensed solid waste site or facility. They are also exempt from the requirement to reimburse DNR for any cleanup expenses incurred by DNR at these sites. These provisions are found in s. 292.11 (9), s. 292.24, s. 292.26, and s. 292.23 (related to certain solid waste management statutes under chapter 289) of the statutes.

Local governmental units include a city, town, village, county, county utility district, town sanitary district, public inland lake protection and rehabilitation district, metropolitan sewage district, redevelopment authority, public body designated by a municipality, community development authority and housing authority. An economic development corporation would have to be one described in section 501 (c) of the Internal Revenue Code that is exempt from federal taxation under section 501 (a) of the Internal Revenue Code, or an entity wholly owned by such a corporation.

The local government exemption from liability would apply if the local government acquired the property: (a) through tax delinquency proceedings or as the result of an order by a bankruptcy court; (b) from another local government that is exempt under the local government exemption provision; (c)

through condemnation or other eminent domain proceedings; (d) for the purpose of slum clearance or blight elimination; (e) through escheat (where there is no heir to the property); or (f) using funds appropriated under the Warren Knowles-Gaylord Nelson Stewardship program. The economic development corporation exemption would apply if the corporation acquired the property to further the economic development purposes that qualify the corporation as exempt from federal taxation.

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

Local governments that meet the specified conditions are exempt from environmental liability and do not have to receive approval from DNR. Thus, DNR does not have data about how many sites are eligible for the exemption. DNR estimates that, as of October 1, 2010, approximately 68 local governments have requested that DNR provide a letter of general liability clarification, which is a written determination by DNR on the local government's eligibility for the exemption. In addition, applications for site assessment grants (described in a later section) indicate many other local governments are acquiring contaminated properties for which they might use a local govern-

ment liability exemption.

DNR began implementing a pilot program in 2003, under provisions of an EPA grant, where local governments and economic development corporations that qualify for the liability exemption may be exempted from the chapter NR 600 hazardous waste management requirements. DNR can use enforcement discretion, on a case-by-case basis, at such sites with a history of hazardous waste management activities. As of October 1, 2010, six sites owned by local governments or economic development corporations, and several properties owned by lenders have been granted letters documenting DNR's decision to use enforcement discretion. In October, 2009, EPA approved DNR's request to approve the program on a permanent basis.

### **Lender Limited Liability Provisions**

A lender that acquires title to, or possession or control of property when it is enforcing a security interest is exempt, under s. 292.21 of the statutes, from environmental liability under the hazardous substances spills law if the lender: (a) does not intentionally or negligently cause a new discharge of a hazardous substance or exacerbate an existing discharge; (b) notifies DNR of any known discharge of a hazardous substance; (c) conducts an environmental assessment at any time up to 90 days after acquiring the property and follows certain procedures related to the assessment; (d) is not engaged in the operation of a business at the property and implements an emergency response action in response to the discharge of a hazardous substance released on or after the date the lender acquires title to, or possession or control of, the property; (e) allows DNR or other specified parties to enter the property to respond to the discharge; (f) agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge; and (g) agrees to any other condition that DNR determines is reasonable and necessary to ensure that DNR or other persons can adequately respond to the discharge.

The lender is required to reimburse DNR for the costs of reviewing materials if the lender

requests a written clarification of their liability status. As of October 1, 2010, DNR has issued 45 lender assessment review letters.

### **Liability Exemption for Off-Site Discharges**

A person is exempt, under s. 292.13 of the statutes, from liability for remedial action under the hazardous substances spills law with respect to the existence of a hazardous substance in the groundwater or soil, including sediments, on property possessed or controlled by the person if: (a) the discharge of the hazardous substance originated from a source on property that is possessed or controlled by another; (b) the person did not possess or control the hazardous substance on the property on which the discharge originated or cause the original discharge; (c) the person conducts an investigation or submits other information that DNR determines is adequate to determine that (a) and (b) are met; (d) the person agrees to allow DNR and other specified parties to enter the property and take action to respond to the discharge; (e) the person agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge; and (f) the person agrees to other specified conditions that DNR determines are reasonable and necessary to ensure that DNR or other specified persons can adequately respond to the discharge.

In addition, a person is exempt from liability for remedial action under the spills law with respect to the existence of a hazardous substance in the soil, including sediments, on property possessed or controlled by the person, if the same conditions are met. Further, the person must agree to take one or more of the following actions at the direction of DNR, if after DNR has made a reasonable attempt to notify the party who caused the discharge of the hazardous substance about the party's responsibilities under the spills law, DNR determines that the action or actions are necessary to prevent an imminent threat to human health, safety or welfare or to the environment: (a) limit public access to the property; (b) identify, monitor and mitigate fire, explosion and vapor hazards on the property; and (c) visually inspect the property and install appro-

priate containment barriers.

Property owners who qualify for the off-site exemption do not have to request or receive approval from DNR in order to be exempt. However, DNR is authorized to, upon request, issue a written determination that the person is not required to respond to the discharge or reimburse DNR for the costs of responding to the discharge if DNR determines that the person qualifies for the exemption from liability. DNR may assess and collect fees from a person to offset the costs of issuing determinations to persons who request them. As of October 1, 2010, DNR had issued 276 off-site liability exemption letters.

### **DNR Technical Assistance**

DNR is authorized, under s. 292.55 of the statutes, to provide various types of technical assistance and to assess and collect fees from the requester of services to offset the costs of providing assistance. Examples of types of technical assistance would include, upon request: (a) assisting persons who want to determine who is liable for environmental pollution of properties; (b) assisting in, or providing comments on the planning and implementation of an environmental investigation of a property or the environmental cleanup of a property; (c) determining whether further action is necessary to remedy environmental pollution of a property; and (d) issuing a letter to a person concerning the environmental liability of owning or leasing the property, the type and extent of contamination on the property or the adequacy of an environmental investigation of the site. As of October 1, 2010, DNR had issued 464 general liability clarification letters, 35 letters concerning the environmental liability of leasing a property, and 1,868 letters regarding other types of technical assistance or fee issues.

### **Cancellation of Delinquent Taxes**

Wisconsin Counties and the City of Milwaukee are authorized to cancel part or all of delinquent property taxes, interest and penalties on a contaminated property. In order to be eligible, an envi-

ronmental assessment would have to show that contamination exists on a property and the property owner or potential owner would have to enter into an agreement with DNR to investigate and clean up the property. As of October 1, 2010, DNR has entered into 26 cleanup agreements for tax delinquent contaminated sites. The agreement is submitted to the taxing authority, either a County or the City of Milwaukee, and that taxing authority determines whether all or a portion of the delinquent taxes will be canceled.

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### **Local Government Negotiation and Cost Recovery**

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Local governments (counties, cities, villages or towns) are authorized, under s. 292.35 of the statutes, to negotiate with parties responsible for environmental pollution to share the costs of remedial action at the site of a facility where either: (a) the environmentally contaminated land is owned by the local government; or (b) a local government owns a portion of the site and commits itself to paying more than 50% of the amount equal to the costs of the investigation and remedial action costs less any financial assistance received for the site or facility. The negotiation procedure first applied to landfills beginning January 1, 1996, and to all other sites or facilities beginning May 13, 1994.

Before the local government may begin the negotiation procedure, it must attempt to identify responsible parties, draft a remedial action plan, conduct a public hearing and obtain DNR approval of the plan. A responsible party would include: (a) an owner or operator at the time the property is taken for tax delinquency or at the time that the disposal or discharge of a hazardous substance at the site or facility occurs; (b) a generator; (c) a transporter; or (d) a person who possesses, controls or causes the discharge or disposal of a hazardous substance.

After DNR approves the remedial action plan,

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

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

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

In September, 1997, DNR created a pilot cost-sharing program to allocate \$3,000,000 of existing general obligation bonding authority for construction projects at the landfills participating in the negotiation procedure. All of the pilot program funds have been allocated to four communities. All four communities have completed the process necessary

to receive pilot program reimbursement and have received reimbursement. The communities and funding amounts are: (a) Rice Lake, \$750,000; (b) Amery, \$350,000; (c) Grafton, \$400,000; and (d) City of Waukesha, \$1,500,000.

No other sites have been entered in the negotiation procedure. DNR staff and interested persons met several years ago to discuss potential improvements to the process. The parties were not able to resolve issues related to allocating the orphan share at municipal landfills, that is, how to allocate cleanup costs for the share of responsibility of unknown parties or parties that are unable to finance cleanup costs.

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

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### **Other DNR Cleanup Initiatives**

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The DNR Remediation and Redevelopment program coordinates a few other contamination cleanup initiatives. Under the Wisconsin Initiative for Sustainable Cleanups initiated in 2008, DNR staff encourage persons who are doing site cleanup to use sustainable practices. This includes activities such as recycling, using less energy, and emitting less pollutants at cleanup sites.

Under the Wisconsin Plant Recovery Initiative initiated in March, 2010, DNR staff provide resources and technical assistance to industrial plants that are closing and to the communities in which they are located. When a company announces a plant closing, DNR staff from the remediation, waste, water and air programs offer to work with the company and the community to expedite the cleanup and reuse of the property. DNR informs the company of its responsibilities to clean up any contamination, and informs both the company and the community of brownfields resources available

to both parties to assess the site for any potential contamination, clean up contamination, and redevelop the property.

DNR is allocating up to \$1 million in federal brownfields assessment grant funds to assess closed or closing plant sites for potential contamination. DNR contracted with three private consulting firms to provide site assessment services with the federal grant funds. DNR also provides: (a) technical assistance on regulatory and environmental issues; (b) emergency assistance for any spills or contamination that presents an immediate threat to public health or the environment; (c) information about, and coordination of receipt of other available state and federal environmental assessment and site cleanup funds; (d) issuance of liability exemption and liability clarification letters for local governments and private parties; and (e) technical oversight to ensure any contamination at the property is cleaned up in accordance with state cleanup requirements. As of October, 2010, DNR has contacted 14 closing or closed plants and received environmental information from five of them. DNR has also been contacted by 10 communities and one regional planning commission for help in addressing issues at a closing plant.

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### **Dry Cleaner Environmental Response Program**

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

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

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

## Revenue

The segregated dry cleaner environmental response fund provides revenues for the dry cleaner environmental response program. Revenues received under the program totaled \$13,689,000 in 1997-98 through 2009-10, including \$1,024,000 in 2008-09 and \$1,019,100 in 2009-10. Revenues are anticipated to generate approximately \$1.0 million in 2010-11.

DOR is required to issue a dry cleaning facility license to each person who submits the required application form. The license is valid until surrendered or transferred by the dry cleaner, or revoked by DOR. If a dry cleaning facility is sold, the seller is authorized to transfer the license to the buyer. Suppliers of dry cleaning solvent are prohibited from selling and delivering dry cleaning solvent to a dry cleaning facility that does not hold a valid dry cleaner facility license.

DOR is required to collect the following revenues from operators of dry cleaning facilities and sellers of dry cleaning products and deposit them into the dry cleaner environmental response fund:

1. A dry cleaning fee paid by every operator of a dry cleaning facility equal to 2.8% of the gross receipts from the previous three months from dry cleaning, due on April 25, July 25, October 25, and January 25; (The fee increased from 1.8% to 2.8%, effective January 1, 2008, under 2007 Wisconsin Act 20.)

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

3. A late filing fee, interest, and negligency

penalty after the due date of the quarterly due date for the dry cleaning facility license fee; and

4. Any recovery of fraudulent awards.

For purposes of the fees under the program, "dry cleaning facility" is defined as a facility that dry cleans apparel or household fabrics for the general public using a dry cleaning product, other than the following facilities: (a) coin-operated facilities; (b) facilities that are located on U.S. military installations; (c) industrial laundries; (d) commercial laundries; (e) linen supply facilities; (f) facilities that are located at a prison or other penal institution; (g) facilities that are located at a nonprofit hospital or at a nonprofit health care institution; (h) facilities that are located on property that is owned by the U.S. government or by the state of Wisconsin; and (i) formal wear rental firms.

## Loan from Environmental Improvement Fund

Under 2009 Act 28, the Department of Administration (DOA) was authorized to determine whether the moneys available in the dry cleaner environmental response fund are insufficient to pay claims under the program. Under such a determination, DOA and DNR were authorized to enter into an agreement to transfer up to \$6.2 million from the land recycling loan program within the environmental improvement fund to the dry cleaner environmental response program to pay awards under the dry cleaner environmental response program. [Further information about the land recycling loan program can be found in the Legislative Fiscal Bureau Informational Paper entitled, "Environmental Improvement Fund."]

DNR and DOA entered into an agreement effective July 30, 2009, to authorize the transfer. DNR submits quarterly requests to DOA for transfer of the amount needed to pay dry cleaner awards during the quarter. The dry cleaner program is required to repay the environmental improvement fund at least \$1,000 per year, and is assessed an interest charge equal to the average rate earned by the state investment fund (cash balances held by the state), with the rate calculated as no less than 0% and no



greater than the environmental improvement fund market interest rate (currently 4.0%). As of November 1, 2010, \$3,167,500 has been transferred from the environmental improvement fund to the dry cleaner response fund, \$5,200 in principal and interest has been repaid, and additional interest has accrued totaling \$1,700, for a total of \$3,168,200 owed by the dry cleaner environmental response fund to the environmental improvement fund.

### **Eligible Applicants**

Owners or operators of dry cleaning facilities can apply for financial assistance to clean up contamination from dry cleaning products associated with their facility. An "owner" is defined as: (a) a person who owns, or has possession or control of, and who receives or received direct or indirect consideration from the operation of any of the following: (1) a dry cleaning facility that has a dry cleaning facility license issued by DOR; (2) a dry cleaning facility that has ceased operation, but that if it ceased operation on or after October 14, 1997, was licensed before it ceased operation; (b) a subsidiary or parent corporation of the owner described under (a); or (c) a person who owns the property on which one of the following is located: (1) a licensed dry cleaning facility; or (2) a dry cleaning facility that has ceased operation but that was licensed before it ceased operation and was licensed and operating while the person owned the property.

An "operator" is defined as: (a) a person who holds a dry cleaning facility license issued by DOR; (b) a subsidiary or parent corporation of a person who holds a dry cleaning facility license; (c) a person who operated a dry cleaning facility that ceased operating before October 14, 1997; or (d) a person who operated a dry cleaning facility that ceased operation after October 13, 1997, if the facility had a dry cleaning facility license before it ceased operation.

Owners or operators of dry cleaning facilities who want to participate in the program are re-

quired to do the following: (a) report a dry cleaning product discharge to DNR in a timely manner; (b) notify DNR, before conducting a site investigation or any remedial action activity, of the potential for submitting an application for an award under the program; (c) conduct an investigation to determine the extent of environmental impact of the dry cleaning solvent discharge; (d) prepare a remedial action plan that identifies specific remedial action activities proposed to be conducted; and (e) conduct remedial action activities, including recover any recoverable dry cleaning product, manage any residual solid or hazardous waste in accordance with law, and restore groundwater in accordance with DNR administrative rules.

An owner or operator may enter into a written agreement with another person where the person acts as an agent for the owner or operator to conduct the cleanup activities.

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

Owners or operators of dry cleaning facilities had until August 30, 2008, to submit a notification to DNR of the potential for submitting a claim under the program. DNR received 230 notifications of potential claims by that date.

## Eligible and Ineligible Costs

Eligible reimbursable costs under the program include reasonable and necessary costs paid for the following items only: (a) removal of dry cleaning products from surface waters, groundwater or soil; (b) investigation and assessment of contamination caused by a dry cleaning product discharge from a dry cleaning facility; (c) preparation of remedial action plans; (d) removal of contaminated soils; (e) soil and groundwater treatment and disposal; (f) environmental monitoring; (g) laboratory services; (h) maintenance of equipment for dry cleaning product recovery performed as part of remedial action activities; (i) restoration or replacement of a private or public potable water supply; (j) restoration of environmental quality; (k) contractor costs for remedial action activities; (l) inspection and supervision; (m) other costs that DNR determines to be reasonable and necessary; and (n) costs up to \$15,000 incurred by a third party in the discovery of a discharge of a dry cleaning product from an eligible owner's or operator's dry cleaning facility before the owner or operator discovered the discharge.

Ineligible costs include the following: (a) costs incurred before October 14, 1997, (The original act allowed applicants to request reimbursement of "past costs" incurred between January 1, 1991, and October 13, 1997, and DNR administrative rule required submittal of applications for past costs by April 30, 2000); (b) costs of retrofitting or replacing dry cleaning equipment; (c) other costs that DNR determines to be associated with, but not integral to, the investigation and remediation of a dry cleaning products discharge from a dry cleaning facility; (d) unreasonable or unnecessary costs; (e) costs for investigations or remedial action activities conducted outside Wisconsin; (f) costs for discharges from hazardous substances other than dry cleaning products; and (g) costs of financing eligible activities.

DNR is required to deny an application for an award if any of the following applies: (a) the application is not within the scope of the program; (b)

the applicant submits a fraudulent application; (c) the applicant has been grossly negligent in the maintenance of the dry cleaning facility; (d) the applicant intentionally damaged the dry cleaning equipment; (e) the applicant falsified records; (f) the applicant willfully failed to comply with laws or rules of the state concerning the use or disposal of dry cleaning solvents; (g) the fees required under the program have not been paid, unless an agreement has been entered into with the Department of Revenue establishing a payment schedule for all of the required fees; and (h) the dry cleaning products discharge was caused on or after October 14, 1997, by a person who provided services or products to the owner or operator including a person who provided perchloroethylene to the owner or operator using a system other than a closed, direct-coupled delivery system.

DNR is required to subtract an amount equal to one-half of ineligible costs claimed by an owner from the eligible costs of the claim, after removing the ineligible costs from the claim. NR 169 identifies the ineligible costs to which the penalty would apply.

DNR is authorized to establish a schedule of usual and customary costs for any eligible costs and use the schedule to determine the amount of a claimant's eligible costs. DNR is authorized to promulgate rules under which it selects service providers to provide investigation or remedial action activities in specified areas. DNR may limit reimbursement of eligible costs to the amount that the selected service provider would have charged, if an owner or operator uses a different service provider than the one selected by DNR. As of January 1, 2011, DNR was in the process of promulgating rules related to usual and customary costs.

DNR established, in NR 169, requirements for soliciting bids for completing a site investigation and remedial action. In addition, NR 169 includes provisions which require claimants to obtain DNR approval of all actions for which a claimant will seek reimbursement, including immediate and

interim actions, which do not require bidding, site investigation and remedial action bid selection, and any change orders exceeding \$3,000.

### **Award and Deductible Provisions**

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

DNR is required to first allocate 9.7% of the financial assistance funds appropriated in each year for awards for immediate action activities and applications that exceed the amount anticipated. An immediate action is a remedial action that is taken within a short time after a discharge of dry cleaning product occurs, or after the discover of the discharge, to halt the discharge, contain or remove discharged dry cleaning product, or remove contaminated soil or water in order to restore the environment to the extent practicable and to minimize the harmful effects of the discharge to air, lands, and waters of the state and to eliminate any imminent threat to public health, safety, or welfare. As of October 1, 2010, DNR reimbursed \$35,300 for two sites for immediate action activities.

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

1. High-priority sites are allocated 25% of available funds and consist of sites that DNR determines pose an imminent risk to human health

or the environment. Examples include sites where the dry cleaning product has contaminated public or private drinking water supplies in concentrations that exceed the health-based standard for the contaminant or where contamination of the drinking water supply is imminent.

2. Medium-priority sites are allocated 60% of available funds and consist of sites that DNR determines pose a significant risk to human health or the environment, or both. Examples include sites where there is contamination of a water supply below health standards or impacts above an environmental standard to surface water or wetlands.

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

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

DNR may waive collection of the deductible if the owner or operator is unable to pay. If the deductible is waived, DNR records a lien on the property until the deductible amount is paid. DNR waived the deductible and filed a lien for two properties as of October, 2010.

An owner or operator may submit up to three interim reimbursement requests during the site investigation phase of the cleanup project, if: (a) the reimbursable costs are at least \$15,000; (b) the reimbursement request is accompanied by a change order to the site investigation scope of work

and a progress report of work done to date; and (c) DNR approves the change order and progress report before paying the reimbursement. Only one reimbursement request can be submitted per fiscal year during the site investigation phase. An owner or operator may submit applications for site investigation and remedial action during the same year, but no more than two applications per year.

If an owner or operator receives payment from another person, including an insurance company, or receives a tax credit, for any eligible cleanup costs before submitting a claim for reimbursement under the program, DNR is required to reduce the award by the amount by which the payments from the other person exceed the sum of the deductible and any eligible costs that exceed the maximum reimbursement amount, up to the maximum award. If an owner or operator receives payment from another person, including from an insurance company or as a tax credit based on eligible costs, after receiving an award under the program, the owner or operator must pay to DNR the amount by which the payment or tax credit exceeds the difference between the total amount of eligible costs and the amount of the award. DNR is required to deposit any amounts collected under these provisions in the dry cleaner environmental response fund.

### Appropriations

In 2010-11, DNR is provided with \$231,400 with 3.0 positions from the segregated dry cleaner environmental response fund for administration of the financial assistance and remediation components of the program. This includes \$153,700 with 2.0 positions in the Bureau for Remediation and Redevelopment to administer cleanup requirements and \$77,700 with 1.0 position in the Bureau of Community Financial Assistance to administer financial assistance requirements. DNR is appropriated \$4,745,200 in 2009-10 and \$763,700 in 2010-11 in a biennial appropriation for financial assistance awards under the program. In 2010-11, DOR is provided with \$66,000 with 1.0 position to collect the revenues under the program.

The condition of the segregated dry cleaner en-

vironmental response fund is shown in Table 7. Revenues totaled \$1.0 million in 2009-10 and are expected to total approximately \$1.0 million in 2010-11. Expenditures totaled \$3,377,000 in 2009-10, including \$3,132,300 for dry cleaner environmental response awards, \$235,800 for DNR and DOR administration, \$3,700 transferred to the general fund as part of overall budget reductions under 2009 Act 28, and \$5,200 for repayment of principal and interest on the loan from the environmental improvement fund.

**Table 7: Dry Cleaner Environmental Response Fund Condition, 2008-09 through 2010-11 (\$ in Millions)**

	2008-09 Actual	2009-10 Actual	2010-11 Estimated
Opening Balance, July 1	\$0.2	\$0.1	\$0.6
Revenue			
Program Fees	1.0	1.0	1.0
Loan from Environmental Improvement Fund	<u>0.0</u>	<u>2.9</u>	<u>1.1</u>
Total Revenue Available	\$1.2	\$4.0	\$2.7
Expenditures	<u>-1.1</u>	<u>-3.4</u>	<u>-2.7</u>
Closing Balance	\$0.1	\$0.6	\$0.0

Table 8 shows the cumulative amount of program costs for financial assistance awards and administration by fiscal year.

### Participation

As of October 1, 2010, DNR had paid \$13,861,409 for 384 claims for 119 eligible dry cleaner facility sites. The distribution of the category of claims is shown in Table 9. Of the 384 claims paid, \$4,319,698 (31%) and 111 claims were for high priority sites.

As of October, 2010, DNR had also reviewed, or was reviewing 15 other claims totaling \$359,900. Claims are generally paid as soon as DNR completes its review of the claim.

Reimbursement has been requested for a total of 130 of the 230 sites that filed notices of potential claims, of which 37 sites have received final

**Table 8: Dry Cleaner Environmental Response Program Costs Paid by Fiscal Year**

	Dry Cleaner Awards	DNR & DOR Administration	Transfer to General Fund	Total
1997-98	\$0	\$51,900		\$51,900
1998-99	0	136,100		136,100
1999-00	0	154,600		154,600
2000-01	1,102,500	180,600		1,283,100
2001-02	592,500	201,700		794,200
2002-03	1,218,700	245,100		1,463,800
2003-04	508,000	256,100		764,100
2004-05	1,592,000	245,600	\$3,000	1,840,600
2005-06	1,715,100	249,900		1,965,000
2006-07	1,934,900	281,900		2,216,800
2007-08	488,700	284,900		773,600
2008-09	850,500	259,300		1,109,800
2009-10	3,132,300	235,800	3,700	3,371,800
2010-11*	<u>2,376,500</u>	<u>297,400</u>		<u>2,767,200</u>
Total	\$15,511,800	\$3,080,900	\$6,900	\$18,692,800
Percent	83.0%	16.5%	0.5%	100.0%

\* Estimated.

**Table 9: Dry Cleaner Environmental Response Program Claims Paid by Category, as of October 1, 2010**

	Claims*	Amount
Past Costs	11	\$549,340
High Priority	111	4,319,698
Medium Priority	163	6,356,215
Low Priority	97	2,600,879
Immediate Action	<u>2</u>	<u>35,277</u>
Total	384	\$13,861,409

\* The 384 claims were paid for 119 sites. Of the 119 sites, cleanup work and reimbursement has been completed at 37 sites.

payment, 82 have received partial payment, and 11 are waiting for review or payment of the claim. Of the 230 potential sites, 100 have not filed an initial claim.

DNR estimates the total potential cumulative cost of the program will be approximately \$35.9 million, including \$13.9 million paid as of October 1, 2010, and \$22.0 million in anticipated future

reimbursement claims for 174 open sites. DNR anticipates claim demand may exceed available funds by June 30, 2012.

### Use of Environmental Fund

If DNR uses the state-funded response appropriation from the segregated environmental fund to pay for a cleanup of a discharge of dry cleaning solvent at a dry cleaning facility and there is a person who would be an eligible owner or operator for the dry cleaning facility, DNR is required to transfer an equal amount of money from the dry cleaner environmental response financial assistance appropriation to the environmental fund when sufficient funds are available. DNR has determined that owners of three dry cleaning facilities are unable to pay for the cleanup. The dry cleaner financial assistance appropriation reimbursed the environmental fund for \$64,300 of cleanup expenditures in 2002-03. An additional \$324,655 in investigation and cleanup costs has been incurred by the environmental fund for three sites and will be reimbursed by the dry cleaner environmental response appropriation at an indefinite future time when funds are available to do so. An additional \$180,091 has been incurred by the ready for reuse program for one site, and is expected to be repaid during 2011-12 and 2012-13.

### Liability

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

## **Dry Cleaner Environmental Response Council**

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

The Council is required to evaluate the program at least every five years, based on criteria developed by the Council. In December, 2001, the Council included an addendum to the DNR report described in the following section. The Council supported the recommendations of the DNR report. On December 20, 2006, the Council submitted a five-year evaluation report to the Governor and Legislature. The report included the following recommendations: (a) that the state increase the dry cleaner gross receipt fee from 1.8% to 2.8% of gross receipts from dry cleaning (this was done in 2007 Act 20, effective January 1, 2008); (b) that the state implement revenue bonding sufficient to provide funding during the next three to four year peak demand, with debt service payments to be paid by the 2.8% dry cleaner gross receipts fee; and (c) that DNR and DOR more closely cooperate regarding administration of the program, particularly with respect to identifying unlicensed dry cleaners in the state. The next Council report is due to the Governor and Legislature by December, 2011.

### **Program Sunset and Review**

The program and fees have a statutory sunset of June 30, 2032 (35 years after creation). DNR was required to complete a review of the program and submit a report on the results of the review to the Joint Committee on Finance and the appropriate standing committees of the Legislature. DNR sub-

mitted the required report to the Legislature in December, 2001. The report included the following recommendations: (a) maintenance of adequate program funding is crucial; (b) the partnership that exists between DNR, DOR and the dry cleaning industry needs to be maintained; (c) DNR, DOR and the industry need to continue and enhance the communication and outreach related to the program; (d) DOR should streamline its management, implementation and enforcement of revenue collections for the program; (e) DNR should continue to participate in the States Coalition for the Remediation of Dry Cleaners (a coalition of several states); and (f) DNR, DOR and industry should pursue statutory changes to improve the program. DNR and industry representatives recommended several changes, many of which were enacted in 2003 Act 312.

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## **Brownfield Site Assessment Grant Program**

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The brownfield site assessment grant program was created in 1999 Act 9 to provide local governments with grants to perform the initial investigation of contaminated properties and certain other eligible activities. DNR administers the program from a biennial appropriation from the environmental management account of the environmental fund. DNR awarded the first site assessment grants in 2000-01. The program is appropriated \$1,595,700 in each of 2009-10 and 2010-11. Cumulative appropriations for the program are \$16,645,700 through 2009-10.

Statutes related to grants under the program are contained in s. 292.75. The program is also administered through administrative rule Chapter NR 168, effective July 10, 2000.

### **Eligible Applicants and Sites**

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

development authority and housing authority.

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

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

### **Eligible Costs and Grant Criteria**

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

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

Before awarding a grant, DNR is required to consider the local government's commitment to completing the remediation activities on the eligible site, the degree to which the project will have a positive impact on public health and the environment, and other criteria. Administrative rule NR

168 establishes a point scoring system to rank applications when grant requests exceed available funding. Points are awarded for the following criteria: (a) location within a source water protection area for certain drinking water supplies; (b) close to a school, park or residence; (c) an eligible site has a hazard or contamination readily accessible to the public or the applicant has taken action to limit access to a hazard or contamination at the site; (d) a site will remain under the ownership of a local government or non-profit organization; (e) a site for which the local government has initiated the formal acquisition process or holds title to the site; (f) more than \$2,000 in eligible past costs have been incurred for the site; (g) additional matching funds provided by the applicant or any local government above the required 20% match; (h) the site or facility is vacant or abandoned; and (i) a site or facility is or was tax delinquent during certain time periods. In addition, an applicant may assign a one-time bonus of 29 points to one application for a large project and one application for a small project that it considers to be a priority. If two or more applications receive the same score, applications requesting the smallest dollar amounts are funded first.

NR 168 allocates 60% of the grant funds to small grants between \$2,000 and \$30,000. The remaining 40% of grant funds are allocated to large grants between \$30,001 and \$100,000.

### **Participation**

DNR made the first grant awards under the site assessment grant program in the fall of 2000. Site assessment grant awards as of January 1, 2010, are listed in Appendix III and include 464 grants to 204 different communities for \$16,696,100 awarded under the ten fiscal years of 2000-01 through the 2009-10 grant cycles. (Some awarded but unexpended grant funds were awarded to different municipalities or were unspent.) The City of Milwaukee and City of Milwaukee Redevelopment Authority in combination received the largest amount of grants, with 91 grants for \$2,576,800, equaling 15.4% of awarded grant dollars.

DNR had a November 8, 2010, application deadline for 2010-11 awards, and will make grant funding decisions for the \$1,595,700 in the 2010-11 appropriation in the spring of 2011.

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### Sustainable Urban Development Zone Program

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A sustainable urban development zone pilot program was created in 1999 Act 9 and repealed in 2003 Act 33. The pilot program provided specific funding to seven specific cities to promote the use of financial incentives to cleanup and redevelop contaminated properties in the cities. The state funds could be used to investigate environmental contamination and cleanup brownfields properties in the cities. Funding was provided from the environmental management account of the environmental fund. Table 10 shows the final grant expenditures for each city.

**Table 10: Sustainable Urban Development Zone Program Grantees**

Municipality	Amount Spent
Beloit	\$194,286
Fond du Lac	250,000
Green Bay	342,550
La Crosse	342,796
Milwaukee	971,429
Oshkosh	242,857
Platteville	<u>103,399</u>
Total	\$2,447,317

Grant work was completed in the seven cities between January of 2003 and May of 2008. Work included investigation and cleanup of contamination at former railroad yards, a bus station, foundry, manufactured gas plant, refrigerator manufacturing plant, other industrial sites, commercial sites, and riverfront areas. Properties were redeveloped into new industrial facilities, bank, hotel, restaurants, retail uses, mixed housing and office uses, student housing, and recreational uses.

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### Brownfields Green Space and Public Facilities Grant Program

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2001 Act 16 created a brownfields green space grant program and required that DNR make awards to local governments for brownfields remediation projects that have a long-term public benefit, including the preservation of green space, the development of recreational areas, or the use of a property by the local government. DNR calls the program the brownfields green space and public facilities grant program.

Statutes and regulations for grants under the program are contained in s. 292.79 of the statutes and administrative rule Chapter NR 173, effective August, 2002. Remedial action activities are eligible for reimbursement.

DNR made the first grants under the greenspace and public facilities grant program in 2003-04. The program was appropriated \$500,000 between 2003-04 and 2008-09. Under 2009 Act 28, funding was eliminated but authorization for the program was maintained. Under the program, DNR awarded 21 grants totaling \$2.1 million as of March, 2009, and has not awarded any grants since then. These grants are shown in Table 11.

NR 173 requires the local government applicant to provide a match equal to 20% of the grant amount if the grant is \$50,000 or less, 35% if the grant is greater than \$50,000 and less than \$100,000, or 50% if the grant is \$100,000 to \$200,000. The rule sets a maximum grant amount of \$200,000. The local government may include as match, grant eligible expenses and non-reimbursable expenses such as costs for property acquisition, site investigation, demolition of buildings or structures, asbestos abatement associated with demolition, removal of debris or waste, environmental assessment, and planning and design of the green space or local government use.

The rule requires DNR to award at least 20% of



**Table 11: Greenspace and Public Facilities Grant Awards as of October 1, 2010**

Grant Recipient *	Number of Grants	Grant Amount
Beloit	1	\$99,950
Delavan	1	200,000
Eau Claire	1	5,000
Fond du Lac	1	50,000
Geneva, Town of	1	25,449
Green Bay	1	200,000
Kaukauna	2	150,000
Kenosha	1	84,585
Madison	1	87,745
Milwaukee City		
Redevelopment Authority	2	325,000
Milwaukee City	1	138,165
Oshkosh	1	200,000
Racine	2	240,075
Shell Lake	1	19,000
Superior	1	88,000
Waukesha	1	4,000
West Allis	<u>2</u>	<u>196,981</u>
Total	21	\$2,113,950

\* Cities unless otherwise noted

the total funding to applications for \$50,000 or less. DNR scores applications based on criteria including the demonstrated need for the project, commitment of the applicant, environmental benefits and financial commitment to the project.

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### Funding for DNR Administration

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#### DNR Appropriations

Funding for DNR administration for state and federal contaminated land and brownfields cleanup programs comes from general purpose revenues, program revenues from fees for certain requests for DNR actions related to contaminated properties, payments from responsible parties, segregated revenues from the environmental management account of the environmental fund, petroleum inspection fund, and dry cleaner environ-

mental response fund, federal funds, and payments from the Wisconsin Department of Transportation. In 2010-11, DNR has 90.75 staff and appropriations of \$8.9 million in the remediation and redevelopment program for administration of contaminated land and brownfields cleanup programs, as shown in Table 12.

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

#### Environmental Management Account Revenues

The environmental management account of the segregated environmental fund is primarily used for DNR program activities related to groundwater management, remediation and redevelopment programs. [Further information about the nonpoint account of the environmental fund can be found in the Legislative Fiscal Bureau Informational Paper entitled, "Nonpoint Source Water Pollution and Soil Conservation Programs."] The environmental management account includes appropriations for DNR administrative, enforcement, preventative, cleanup and groundwater management activities. It also funds DNR debt service appropriations for remedial action, DNR administrative facilities, contaminated sediment cleanup, and water pollution abatement for bonds issued in the 1980s for the predecessor wastewater treatment finance program to the clean water fund program (costs converted from GPR under 2009 Act 28). The environmental management account also funds environmental programs administered by other state agencies, including the Department of Commerce, the Department of Health and Family Services, the Department of Military Affairs and the University of Wisconsin System.

**Table 12: Authorized Staff and Administrative Appropriations for DNR's Bureau for Remediation and Redevelopment and Regional Remediation and Redevelopment Staff -- 2010-11**

Funding Source	Permanent Positions	Appropriation
<b>General Fund</b>		
Bureau for Remediation and Redevelopment - administration	6.00	\$478,600
<b>Program Revenue</b>		
Purchaser liability and remediated property fees	9.00	786,900
Solid and hazardous waste administration	2.50	191,500
Department of Transportation contract	---	230,000
<b>Segregated Funds</b>		
Environmental Management Account – remediation and redevelopment and brownfields administration	23.75	2,222,900
Petroleum Inspection Fund - PECFA cost control and brownfields administration	18.00	1,480,000
Dry Cleaner Environmental Response Fund – administration	2.00	153,700
<b>Federal Funds</b>		
Superfund administration	6.00	895,000
Brownfields administration	14.00	1,374,000
Hazardous waste administration	1.50	243,500
LUST – administration	7.00	785,000
Other Federal funds	<u>1.00</u>	<u>82,000</u>
<b>Total</b>	<b>90.75</b>	<b>\$8,923,100</b>

The estimated condition of the environmental management account of the environmental fund is shown in Table 13. Revenues to the environmental management account of the environmental fund are generated from several fees that totaled approximately \$27.3 million in 2008-09 and \$28.5 million in 2009-10, as shown in Table 14. These revenues are described in the following section.

Appendix IV lists appropriations from the environmental management account of the environmental fund during 2008-09 through 2010-11. In addition to expenditures for appropriations, transfers have been made from the environmental management account to the general fund in the past several years. These are shown in Table 15.

**Vehicle Environmental Impact Fee.** A \$9 per vehicle fee is assessed at the time of titling new and used vehicles. Beginning on December 1, 1997, the fee was \$5 per vehicle. It was raised to \$6 on December 1, 1999, and to \$9 beginning October 1, 2001. The fee had been extended for two years at a time in every biennial budget act since it was created. The fee was made permanent in 2009 Act 28. The Department of Transportation collects the

**Table 13: Environmental Management Account of the Environmental Fund Condition, 2008-09 Through 2010-11 (\$ in Millions)**

	2008-09 Actual	2009-10 Actual	2010-11 Estimated
Opening Balance, July 1	\$22.0	\$20.0	\$17.2
Revenue	<u>27.3</u>	<u>28.5</u>	<u>33.0</u>
Total Available	\$49.3	\$48.5	\$50.2
<b>Expenditures</b>			
DNR Administration	\$8.5	\$9.3	\$10.4
DNR and Commerce Grants	7.0	6.0	8.9
DNR State-Funded Cleanup	1.5	1.0	2.3
Debt Service	4.1	4.7	13.6
Site Specific Remediation	3.1	2.8	3.1
Other Agencies	<u>0.5</u>	<u>0.4</u>	<u>0.5</u>
Total Expenditures	\$24.7	\$24.3	\$38.8
Less Transfer to General Fund	4.6	7.0	2.2
Cash Balance, June 30	\$20.0	\$17.2	\$9.2
Encumbrances and Continuing Balances	<u>19.4</u>	<u>17.8</u>	<u>17.8</u>
Available Balance, June 30	\$0.6	-\$0.6	-\$8.6*

\* Agencies would need to reduce expenditures from authorized appropriations, other than debt service and site specific remediation, and reduce planned transfers to the general fund by a total of \$8.6 million in order to maintain a positive balance in the account.

**Table 14: Environmental Fund Revenues for the Environmental Management Account, 2008-09 and 2009-10**

Revenue Source	2008-09 Revenue	2009-10 Revenue
Vehicle Environmental Impact Fee	\$10,583,500	\$10,454,000
Environmental Repair Tipping Fee	6,343,300	8,816,900
Site Specific (Fox River) Remediation	2,324,300	3,177,800
Petroleum Inspection Fund	1,816,300	1,934,800
Pesticide and Fertilizer Fees	1,476,200	1,420,100
Hazardous Waste Generator Fee	584,300	756,100
Groundwater Waste Generator Tipping Fee	861,500	642,300
Well Compensation Tipping Fee	365,200	279,600
Sanitary Permit Groundwater Fee	295,400	276,700
Hazardous Spill Reimbursement	1,653,100	229,100
Nonmetallic Mining Fees	206,900	195,400
Environmental Assessment	229,100	138,500
Land Disposal Permit	73,600	75,400
Civil Action Damages	34,800	22,900
Bulk Tank Surcharge	20,700	17,600
Septic System Servicing Fee	41,500	8,600
Environmental Repair Surcharge	3,600	2,800
Environmental Repair Base Fee	2,100	2,100
Cooperative Remedial Action	200	0
Investment Income	220,400	34,000
Miscellaneous Revenue	<u>130,800</u>	<u>29,700</u>
<b>Total</b>	<b>\$27,266,800</b>	<b>\$28,514,400</b>

**Table 15: Transfers from the Environmental Management Account**

Fiscal Year	Transfer to General Fund	Transfer to Conservation Fund	Total
2001-02	\$981,900		\$981,900
2002-03	10,105,200		10,105,200
2003-04	932,600		932,600
2004-05	943,100		943,100
2005-06	5,200,000	\$1,000,000	6,200,000
2006-07	1,009,600		1,009,600
2007-08	72,800		72,800
2008-09	4,575,300		4,575,300
2009-10	7,041,500		7,041,500
2010-11 **	<u>2,250,000</u>		<u>2,250,000</u>
<b>Total</b>	<b>\$33,112,000</b>	<b>\$1,000,000</b>	<b>\$34,112,000</b>

\*\* Estimated. The amount of the transfer to the general fund may change as DOA and agencies allocate agency-wide transfers required under 2009 Act 28.

fees and deposits them in the environmental fund.

**Environmental Repair Tipping Fee.** Solid and hazardous waste disposal facilities (landfills) pay

solid waste tipping fees for each ton of waste disposed of at the landfill, except for materials used for lining, daily cover, capping or constructing berms, dikes or roads within the facility. Three separate tipping fees are deposited in the segregated (SEG) environmental management account. Other tipping fees are deposited in the nonpoint account, recycling and renewable energy fund and program revenue (PR) accounts. Table 16 shows the types and amounts of all state solid waste tipping fees.

Facilities pay an environmental repair tipping fee for municipal, hazardous, or non-high volume industrial waste of \$2.50 per ton, a fee for high-volume industrial waste of 20¢ per ton, or a fee for certain PCB-contaminated sediments of 85¢ per ton. High-volume industrial waste includes paper mill sludge, bottom ash, foundry process waste and fly ash.

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

**Site Specific (Fox River) Remediation.** Certain revenues are deposited in the environmental management account for remediation at specific sites. The moneys can only be expended for the purposes received. The revenues include all moneys received: (a) in settlement of actions initiated under federal CERCLA regulations (Comprehensive Environmental Response, Compensation and Liability Act); and (b) all moneys received under court approved settlement agreements or orders, in settlement of actions or proposed actions for violations of environmental statutes, that are designated to be used to restore or develop environmental resources, to provide restitution or to make expendi-

**Table 16: State Solid Waste Tipping Fees Per Ton**

Fund, Fee	Type	Municipal and Non-High-Volume Industrial Waste Prior Rate	Municipal and Non-High-Volume Industrial waste Current Rate	High-Volume Industrial Waste	PCB Contaminated Sediment Prior Rate	PCB Contaminated Sediment Current Rate
Recycling	SEG	\$4.000	\$7.000*	\$0.000	\$0.000	\$0.000
Environmental management account - environmental repair	SEG	0.850	2.500**	0.200	0.850	0.850
Environmental management account - groundwater	SEG	0.100	0.100	0.100	0.100	0.100
Environmental management account - well compensation	SEG	0.040	0.040	0.040	0.040	0.040
Nonpoint account	SEG	0.750	3.200**	0.000	0.750	3.200**
DNR Solid Waste landfill administration	PR	0.150	0.150	0.150	0.150	0.150
DOA Solid Waste Facility Siting Board	PR	<u>0.007</u>	<u>0.007</u>	<u>0.007</u>	<u>0.007</u>	<u>0.007</u>
		\$5.897	\$12.997	\$0.497	\$1.897	\$4.347

-High-volume industrial waste includes fly ash, bottom ash, paper mill sludge and foundry process waste.

-Municipal and non- high-volume industrial waste includes solid waste generated by residences, business, commercial, government facilities, construction and demolition, and industrial uses that are not high-volume.

-PCB (polychlorinated biphenyls) contaminated sediments are subject to the rates in the table if they are removed from a navigable water of the state in connection with a phase of a project to remedy contamination of the bed of the navigable water, and the quantity of sediments removed will exceed 200,000 cubic yards. If the PCB sediments do not meet these criteria, they are subject to the fees for non- high-volume industrial waste.

-Waste used as daily cover, lining, capping or constructing berms, dikes or roads in the facility is exempt from the fees if use for that purpose is approved by DNR and the waste is used in that way.

\* The fee increased to the current rate for waste disposed of on or after October 1, 2009

\*\* The fee increased to the current rate for waste disposed of on or after July 1, 2009

tures required under the order or agreement. Almost all of the revenues received to date relate to cleanup of PCBs (polychlorinated biphenyls) in a stretch of the Fox River from Lake Winnebago to Green Bay.

**Petroleum Inspection Fund.** An annual transfer of \$1,704,800 is made from the petroleum inspection fund to the environmental fund. The appropriation includes \$719,800 in each year for groundwater management and \$985,000 in each year (including \$80,000 for well compensation) for environmental repair. Under 2009 Act 28, an additional transfer is made of \$230,000 in 2009-10 and \$530,000 in 2010-11. A petroleum inspection fee of 2¢ per gallon is assessed on all petroleum products brought into the state. The fee generates approximately \$71 million annually. Fee revenues are deposited in the segregated petroleum inspection fund and are used primarily to fund cleanup of petroleum-contaminated sites under the Petroleum Environmental Cleanup Fund Award (PECFA)

program.

**Pesticide and Fertilizer Fees.** License fees are assessed annually on manufacturers and labelers of pesticides and collected by DATCP. The fees are deposited in the environmental management account. Of the total registration fee (which ranges from \$265 to \$3,060 based on the annual sales), \$124 per each household pesticide product licensed and \$94 per each nonhousehold pesticide product licensed is deposited in the environmental fund. The remaining fees are deposited in the segregated agrichemical management fund.

License applicants also pay a cleanup surcharge, which is deposited in the environmental fund, for nonhousehold pesticide products that are wood preservatives solely labeled for use on wood and that contain pentachlorophenol or coal tar creosote. The surcharge ranges from \$5 if sales of the product in the state are less than \$25,000 to 1.1% of gross revenues if sales of the product ex-

ceed \$75,000 in the state.

Further, persons who sell or distribute fertilizer or who distribute a soil or plant additive in Wisconsin are required to pay a groundwater fee, which is deposited in the environmental fund, of 10¢ per ton of fertilizer, with a minimum fee of \$1 for aggregate sales of 10 tons or less.

Finally, producers of pesticides must pay a well compensation fee of \$150 annually. The fees are collected by DATCP and deposited in the environmental fund.

**Hazardous Waste Generator Fee.** A \$350 base fee for small quantity generators or \$470 for large quantity generators (increased from \$210 for both in 2009-10 under 2009 Act 28) plus \$20 per ton is charged to all generators of hazardous waste that are required to report annually to DNR under the state's hazardous waste law. Producers of at least 220 pounds of hazardous waste in any month report annually and pay both the base fee and tonnage fee, but are exempt from the tonnage fee if the waste is: (a) recovered for recycling or reuse; (b) leachate being transported to a wastewater treatment plant; or (c) removed from the site as part of an environmental cleanup project. The maximum fee for a single generator is \$17,500 (\$17,000 prior to 2009-10).

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

**Well Compensation Tipping Fee.** An owner or operator of a licensed solid or hazardous waste disposal facility collects a well compensation solid waste tipping fee of 4¢ per ton of non-mining waste from the generator for payment to the environmental management account.

**Sanitary Permit Groundwater Fee.** Local governments are required to issue a sanitary permit and charge a fee before a person may install any septic tank or private sewage system. In addition, the local government that issues the sanitary permit is required to collect a \$25 groundwater fee and pay it to Commerce, which then deposits the surcharge in the environmental fund. Commerce rules require the local government to charge a sanitary permit fee that totals at least \$141, and send \$100 of the total to Commerce. The \$100 includes the \$25 groundwater fee deposited in the environmental management account, and \$75 which is deposited in a Commerce program revenue account for Commerce administration of the sanitary permit program. (The local government keeps \$41 of the \$141, or more if the local government sets a higher total fee.)

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

**Nonmetallic Mining Fees.** All 71 counties that were required to enact and administer a nonmetallic mining reclamation ordinance did so by June 1, 2001. (Milwaukee County is not required to adopt an ordinance because all municipalities within the county with nonmetallic mines adopted ordinances.) Approximately 18 towns, villages and cities are administering local ordinances. (The number varies over time.) A county or municipality with an ordinance collects annual fees to cover the local and DNR costs of administering the program. The DNR share of the fees, established in administrative rule, equals \$35 to \$175, depending on the mine size in unreclaimed acres. The counties and municipalities collect the DNR share of fees and pay them to DNR for deposit in the environmental fund.

**Environmental Assessment.** When a court imposes a fine or forfeiture for violation of administrative rules or DNR orders related to pollution discharge, drinking water or septic tank statutes, it also imposes an environmental assessment. The court transfers the assessment to DNR and DNR deposits the assessment in the environmental fund. The assessment is equal to 10% of the fine or forfeiture for violations that occurred before July 1, 2009, or 20% of the fine or forfeiture for violations that occurred on or after July 1, 2009. Fifty percent of the 10% assessments and 70% of the 20% assessments are deposited in the University of Wisconsin System's environmental education appropriation within the environmental fund to fund environmental education grants. Table 11 includes the total amount of environmental assessment revenue, including the amounts statutorily designated to be used solely for UW System environmental education grants and the undesignated amounts.

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

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

**Bulk Tank Surcharge.** Persons must receive approval from Commerce of plans for installation of or change in the operation of a previously approved installation for the storage, handling or use of flammable or combustible liquids. In addition to any plan review fees, a groundwater fee of \$100 per plan review submittal for tanks with a capacity

of 1,000 gallons or more is collected and deposited in the environmental management account.

**Septic System Servicing Fee.** Persons who remove and dispose of septage from septic tanks, soil absorption fields, holding tanks, grease traps or privies must pay DNR a septic servicing groundwater fee of \$100 for a two-year period. DNR deposits the fee in the environmental management account. In addition, DNR collects program revenue fees of \$50 per resident servicing vehicle for two years.

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

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

**Investment Income.** Interest earned on state investments is distributed to various funds, including the environmental fund, based on its monthly cash balance.

## Program Revenues

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

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

The hourly billing rate has been \$100 per hour since July, 2009, and can be recalculated annually. (Between December, 2008, and June, 2009, the hourly billing rate was \$95 per hour.) After DNR approves a final remedial design, an applicant can choose to cover remaining DNR review costs, including DNR issuance of a certificate of completion, by either continuing quarterly billing or paying a final fee that equals 40% of the total DNR oversight costs incurred up to and including the approved final remedial design.

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

When a person requests that DNR review

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

Examples of types of requests for which a fee is charged under NR 749 are: (a) \$750 for issuance of a case closure letter that provides the DNR's determination that, based on information available at the time of the department's review, no further action is necessary after a site investigation and cleanup has been completed; (b) \$250 for adding sites to an online geographic information system (GIS) registry of sites approved for closure where a groundwater enforcement standard is exceeded (effective November 1, 2001); (c) \$200 for adding sites to the GIS registry of sites approved for closure with residual soil contamination (effective August 1, 2002); (d) \$500 for issuance of an off-site letter that clarifies who is not responsible when contamination is migrating on to a property from an off-site source; (e) \$750 for approval of the use of site specific soil cleanup standards; (f) \$250 for issuance of a no further action letter for a spill site where an immediate action was undertaken; (g) \$500 for issuance of a letter to clarify liability for site-specific matters related to the environmental pollution and remediation of a property; (h) \$500 for issuance of a letter to a lender explaining the potential liability associated with acquiring a contaminated property; and (i) \$1,000 for negotiation of an agreement containing a schedule for conducting non-emergency actions with a person who possesses or controls a hazardous substance that was discharged or who caused the discharge.

DNR collected cumulative revenues of \$9.2 million through June 30, 2010, for deposit in a program revenue account that funds DNR staff who administer the liability exemption provisions. DNR is authorized \$786,900 PR and 9.0 PR positions funded from the fees in 2010-11. Program revenues received under the appropriation included \$759,100 in 2008-09 and \$741,700 in 2009-10.

In 2008-09 and 2009-10, most of the fees

collected were from a \$750 fee for issuance of case closure letters, many of which were for PECFA-eligible petroleum-contaminated sites, and for

adding sites to the online GIS registry of sites closed with a groundwater enforcement standard exceedence or with residual soil contamination.



PROGRAMS ADMINISTERED BY OTHER STATE AGENCIES

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**Brownfields Grant Program**

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

In the 2009-11 biennium, \$13.1 million is provided for brownfields grants from the environmental management account of the environmental fund. This includes \$6,570,500 in 2009-10 and \$6,570,500 in 2010-11. [Further information about the program can be found in the Legislative Fiscal Bureau Informational Paper entitled, "State Economic Development Programs Administered by the Department of Commerce."]

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**Agricultural Chemical Cleanup Program**

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The Department of Agriculture, Trade and Consumer Protection administers the agricultural chemical cleanup program, which was created in 1993 Wisconsin Act 16. The act transferred responsibility for the investigation and remediation of agricultural chemical spills from DNR to DATCP. The act also established a grant program to fund a portion of cleanup costs and increased DATCP pesticide and fertilizer fees to fund the program. 1997 Wisconsin Act 27 split agrichemical revenues into base fees deposited to the agrichemical management (ACM) fund and surcharges deposited to the agricultural chemical cleanup program (ACCP) fund. [Further information about the program can be found in the Legislative Fiscal Bureau Informational Paper entitled, "Agricultural Chemical Fees and Programs."]

## Appendices

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

- Appendix I lists the Superfund sites in Wisconsin and shows the status of cleanup actions.
- Appendix II lists the state-funded response projects in Wisconsin where cleanup is partially or fully funded by the segregated environmental fund.
- Appendix III lists the DNR brownfield site assessment grants awarded as of January 1, 2010.
- Appendix IV lists appropriations from the environmental management account of the environmental fund during 2008-09 through 2010-11.

## APPENDIX I

### Superfund Site Status in Wisconsin (October, 2010)

<u>Wisconsin Sites on EPA's National Priority List (NPL)</u>	<u>Municipality</u>	<u>County</u>	<u>Funding</u>	<u>Status</u>
Ashland NSP	Ashland	Ashland	PRP	RI/FS
Better Brite Chrome & Zinc*	De Pere	Brown	SUPERFUND	O&M
Pentawood Products	Daniels, Town	Burnett	SUPERFUND	O&M
Schmalz Landfill	Harrison	Calumet	SUPERFUND	O&M
Hagen Farm	Stoughton	Dane	PRP	O&M
City Disposal Corp Landfill	Dunn, Town	Dane	PRP	O&M
Stoughton City Landfill	Stoughton	Dane	SUPERFUND	O&M
Madison Metro Sludge Lagoons	Madison	Dane	PRP	O&M
Refuse Hideaway	Middleton	Dane	SUPERFUND	O&M
Oconomowoc Electroplating Co.	Ashippun	Dodge	SUPERFUND	O&M
Hechimovich Landfill*	Williamston	Dodge	PRP	O&M
Eau Claire Municipal Well Field	Eau Claire	Eau Claire	SUPERFUND	O&M
National Presto Industries	Eau Claire	Eau Claire	PRP	O&M
City of Ripon Landfill*	Ripon	Fond du Lac	PRP	O&M
Algoma, City of, Landfill	Algoma	Kewaunee	PRP	O&M
Onalaska Municipal Landfill*	Onalaska	La Crosse	SUPERFUND	O&M
Lemberger Fly Ash Landfill	Whitelaw	Manitowoc	PRP	O&M
Lemberger Transport/Recycling	Whitelaw	Manitowoc	PRP	O&M
Mid-State Disposal Inc. Landfill	Cleveland	Marathon	PRP	O&M
Wausau, City of, Water Supply	Wausau	Marathon	PRP	O&M
Spickler Landfill	Spencer	Marathon	PRP	O&M
Moss-American (Kerr McGee Oil)	Milwaukee	Milwaukee	PRP/SUPERFUND	O&M
Tomah Armory	Tomah	Monroe	PRP	O&M
Tomah Sanitary Landfill	Tomah	Monroe	PRP	O&M
N.W. Mauthe Co.*	Appleton	Outagamie	SUPERFUND	O&M
Amcast	Cedarburg	Ozaukee	SUPERFUND	RI/FS
Hunts Disposal/Caledonia Landfill	Caledonia	Racine	PRP	O&M
Janesville Ash Beds	Janesville	Rock	PRP	O&M
Janesville Old Landfill	Janesville	Rock	PRP	O&M
Sauk County Landfill*	Excelsior	Sauk	PRP	O&M
Kohler Co. Landfill*	Kohler	Sheboygan	PRP	O&M
Sheboygan River & Harbor	Sheboygan	Sheboygan	PRP	RD/RA
Scrap Processing Inc.-Potaczek	Medford	Taylor	SUPERFUND	O&M
Delevan Municipal Well No. 4*	Delevan	Walworth	PRP	O&M
Waste Management of WI-Brookfield*	Brookfield	Waukesha	PRP	O&M
Lauer I Sanitary Landfill (Boundary Road) *	Menomonee Falls	Waukesha	PRP	O&M
Master Disposal Service Landfill	Brookfield	Waukesha	PRP	O&M
Muskego Sanitary Landfill	Muskego	Waukesha	PRP	O&M

PRP—Potential Responsible Party; RI/FS--Remedial Investigation/Feasibility Study; RD--Remedial Design; RA—Remedial Action; O&M—Operation and Maintenance.

\* Designates DNR lead; all others, EPA lead.

## APPENDIX II

### State-Funded Response Actions Funded by the Wisconsin Environmental Fund as of October, 2010

**Adams**

Easton Store (Former)

**Ashland**

Ashland City / Kreher Park  
Fort James Mill  
NSP Coal Gas Waste  
Quearm Oil Company

**Barron**

Lemler Landfill  
Rice Lake Landfill

**Bayfield**

Barksdale Dump

**Brown**

Better Brite – Chrome Shop  
Better Brite – Zinc Shop  
H&R Paper & Refuse Service  
R L O'Keefe & Sons  
Scray's Hill

**Burnett**

Penta Wood Products  
Piotrowski Property  
Webster Volatile Organic Com-  
pounds (VOC) Contamination

**Calumet**

Chilton Well #5  
Hayton Area Remediation Project  
Schmalz Dump  
Schneider Property

**Chippewa**

Better Brite Plating  
Boyd Municipal Well #3  
Mix Property  
Perrenoud, Inc.  
Rihn Oil Company

**Clark**

Arlene's Inn  
Chili Service & Strey Property  
Granton Investigation  
Harmony Cooperative Equity  
Neillsville Foundry

**Columbia**

Glacier Oil  
LaGrange Property  
Matthews Estate Property  
Nemitz Laundry  
New Pinery Road

**Columbia (cont.)**

Portage Canal  
Rockwell of Randolph

**Crawford**

Bell Center Landfill

**Dane**

Erfurth's Citgo  
Hagen Farm  
Madison First Street Garage  
Madison Municipal Well #3  
Madison Watts / Seybold Rd.  
McFarland Terminal Drive  
Refuse Hideaway Landfill  
Rimrock Road VOCs  
Rimrock Road Well  
STA-Rite Industries  
Stoughton Landfill  
Town of Madison – Fish Hatchery Rd.

**Dodge**

Davy Creek  
Hechimovich Landfill  
Mayville Iron & Coke  
Oconomowoc Electroplating  
Watertown Tire Fire

**Door**

Door County Cooperative

**Douglas**

Hog Island Inlet  
Howard's Bay  
Newton Creek  
Solon Springs  
Superior Woods Systems

**Dunn**

Lentz Fertilizer Pesticide

**Eau Claire**

City of Augusta  
Eastenson Salvage Yard  
Eau Claire Battery Site  
Eau Claire Municipal Well Field

**Fond du Lac**

Abhold's Garage  
Fond du Lac #12  
Old Dutchmill  
Quicfrez  
Ripon Wells #6 & #9  
Rueping Leather  
Smedema Property  
Stiedaman Property Lamartine

**Grant**

Ellenboro Store

**Green**

Leck Property

**Iowa**

Dodgeville Waterworks  
Mineral Point Roaster Piles

**Jackson**

Home Oil  
Melrose Well #3  
Merrillan Water Supply

**Jefferson**

Else Property  
Sanitary Transfer & Landfill

**Juneau**

Hustler Hardware

**Kenosha**

Chrysler Kenosha Engine  
Frost Manufacturing  
Kenosha Iron & Metals

**Kewaunee**

Kewaunee Marsh

**La Crosse**

Holmen I and Holmen II  
La Crosse Municipal Well 10H  
National Auto Wrecking  
Onalaska Landfill  
Tarco South

**Lafayette**

Champion Mine – New Diggings

**Langlade**

Langlade Oil

**Lincoln**

Tomahawk Tissue/Georgia Pacific LF  
Koch Dry Cleaners  
Kwaterski Millwork  
Merrill – IGA

**Manitowoc**

Kasson Cheese Company  
Lemberger Transport & Recycling  
Manitowoc-Two Rivers Trichloroethylene  
Two Rivers Petroleum  
White Property

## APPENDIX II (continued)

### State-Funded Response Actions Funded by the Wisconsin Environmental Fund as of October, 2010

#### **Marathon**

Abbotsford PCE Investigation  
Bungalow Tavern  
Elderon Water Supply  
Gorski Landfill  
Halder Wells  
Holtz & Krause  
Midstate Disposal Landfill  
Modern Sewer Service  
Murray Machinery Lagoon  
Standard Container  
Town of Stettin  
Unity Auto Mart  
Village of Halder  
Wausau/Marathon Electric Landfill  
Weisenberger Tie & Lumber  
Weston Mesker #2 Well

#### **Marinette**

American Graphics  
Boehm Property  
Dunbar Service Center  
Fairground Rd. / Cedar St.  
Leo Tucker Auto Salvage  
Miron Property  
Wausaukee Well #2

#### **Marquette**

Montello Lodge  
Westfield Equipment

#### **Milwaukee**

A-1 Bumper  
Babcock & Wilcox  
BOC Property  
Betz Trust  
Cleansoils Wis Inc Soil Storage  
Facility  
Custom Plating  
Glendale Tech Center East #3  
Jay's Fuel Oil  
Lincoln Park - Estabrook  
Impoundment  
Lubricants Inc.  
Mobile Blasting Off-Site Investigation  
Mobile Blasting Remediation  
Moss American Kerr McGee  
P&G School Bus Service  
Phillips 66 / Grace Church  
Plating Engineering  
Presidio  
West Walnut St/Hydroplaters

#### **Monroe**

Aschwander Residence  
South Side Lumber  
Tomah Well #5  
Tomah Well #8  
Wittig Oil Motel

#### **Oconto**

Knoll Service Station  
Lakewood Dx  
Midstate Oil - Giese  
New Lindwood

#### **Oneida**

Baker Property  
Citgo Quick Mart (Former Home Oil)  
Herrick Well  
Minocqua Cleaners  
Minocqua Water Supply  
Rhinelanders Landfill

#### **Outagamie**

American Toy & Furniture  
Fox Valley Steel & Wire  
Freedom Sanitary District - IGA  
Kaphingst Property  
Malchow Property  
Midwest Plating  
N W Mauthé  
Porter Well  
Wanglin Barrel  
Waugamie Feed Mill  
Wisconsin Chrome

#### **Ozaukee**

Cedar Creek  
Cedarburg Water Supply  
Lime Kiln Park - Grafton Village  
Roth Property

#### **Polk**

Amery Landfill  
Electrocraft/Thompson Machine  
Osceola Dam

#### **Portage**

Amherst Super Service

#### **Price**

Dragovich & Boho Sites  
Flambeau Garage

#### **Racine**

Golden Books Publishing  
Racine Brownfields Pilot  
Rowe Oil Service  
Tappa Property

#### **Richland**

Richland Center - IGA

#### **Rock**

Borgerding Property  
Dwyer Property  
Edgerton Sand & Gravel  
Riverside Plating  
Rock Paint & Chemical

#### **Sauk**

Circus City Cleaners

#### **Sawyer**

Ackley Amoco  
Price Rite Liquor

#### **Sheboygan**

Oostburg - IGA  
Sheboygan River & Harbor

#### **St. Croix**

Junkers Landfill  
Troutbrook Parkview Estates  
Warren TCE Investigation

#### **Taylor**

Doberstein Lumber & Fence  
Donald Store  
Scrap Processing  
Webster Pig Farm

#### **Trempealeau**

Arcadia Water Supply

#### **Vernon**

Viroqua Well  
Westby Dry Cleaners

#### **Vilas**

Bitinas Phillips 66 Station  
C.M. Christiansen

#### **Walworth**

Delavan Municipal Well #4  
Elkhorn Metal Finishers  
Getzen Company  
Hawthorne Property

#### **Washburn**

Beaver Brook/Fairgrounds  
Blue Bonnet Trust Site Springbrook  
Mortensen Enterprises  
Norm's Mobil Sarona

#### **Washington**

Town of Jackson Garage  
West Bend Water Supply

## APPENDIX II (continued)

### State-Funded Response Actions Funded by the Wisconsin Environmental Fund as of October, 2010

#### **Waukesha**

Barrett Landfill  
Delafield Landfill  
Super Excavators  
Waukesha West Ave. Landfill

#### **Waupaca**

J & J Cleaners – Waupaca Well #4  
Peterson Petroleum

#### **Waushara**

Union State Bank

#### **Winnebago**

American Quality Fibers  
Barth Property  
Fox Valley Laundries  
Fox River Risk Assessment  
Moder Well  
Nonweiler Property  
Oshkosh Northwestern  
Panzen Transfer  
Shilobrit Dry Cleaners, Neenah  
Shilobrit Dry Cleaners, Oshkosh

#### **Wood**

Food Tree  
Luchterhand Dump  
Pittsville Well #6  
Rudolph Case Tosch Motors  
Saratoga Gas & Grocery

#### **DNR Northern Region**

Clandestine Methcathinone (CAT)  
Labs

#### **Statewide**

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

IGA = Intergovernmental Agreement

**APPENDIX III**

**DNR Brownfield Site Assessment Grant Awards  
As of January 1, 2011**

Recipient*	Number of Grants	Grant Amount	Recipient*	Number of Grants	Grant Amount
<b>Adams</b>			<b>Crawford</b>		
Adams County	2	\$129,990	Crawford County	1	\$75,000
			Prairie du Chien, City	3	135,000
<b>Ashland</b>			Prairie du Chien RA	3	160,000
Ashland, City	4	190,000			
Ashland, City HA	1	100,000	<b>Dane</b>		
Mellen, City	1	30,000	Belleville, Village	1	30,000
			Cross Plains, Village	2	104,762
<b>Barron</b>			Dane, Village	1	30,000
Barron County	1	29,150	DeForest, Village RA	1	20,224
Cumberland, City	1	61,040	Dunn, Town	1	6,500
Prairie Farm, Village	1	100,000	Madison, City	1	73,600
Rice Lake, City	1	100,000	Madison, Town	2	42,648
			Oregon, Village	1	29,500
<b>Bayfield</b>			Stoughton, City	1	30,000
Bayfield County	1	2,100	Sun Prairie, City	1	30,000
			Waunakee, Village	6	249,380
<b>Brown</b>			Windsor, Town	2	59,880
Ashwaubenon, CDA	2	60,000			
Ashwaubenon, Village	1	98,490	<b>Dodge</b>		
Denmark, Village	1	30,000	Dodge County	3	126,000
Green Bay, City	2	130,000	Horicon, City	2	130,000
Green Bay, City RA	1	30,000	Lomira, Village	1	29,840
Hobart, Village	1	27,500	Mayville, City	1	30,000
Ledgeview, Town	1	8,975			
Burnett County	2	32,275	<b>Door</b>		
			Door County	1	12,750
<b>Calumet</b>			Forestville, Village	1	100,000
Chilton, City	7	178,450	Sturgeon Bay, City	1	100,000
<b>Chippewa</b>			<b>Douglas</b>		
Bloomer, City	1	29,500	Douglas County	4	100,534
Chippewa County	3	153,000	Solon Springs, Village	1	30,000
Chippewa Falls, City	2	60,000	Superior, City	2	27,500
<b>Clark</b>			<b>Dunn</b>		
Clark County	1	30,000	Menomonie, City	3	57,800
Colby, City	1	30,000			
Loyal, City	1	16,000	<b>Eau Claire</b>		
Neillsville, City	1	100,000	Eau Claire, City	2	200,000
<b>Columbia</b>			<b>Florence</b>		
Cambria, Village	3	61,030	Florence, Town	1	100,000
Columbus, City	1	29,000			
Portage, City	1	55,000	<b>Fond du Lac</b>		
Wisconsin Dells, City	3	144,489	Fond du Lac, City	1	100,000
Wycocena	1	28,150	Fond du Lac, County	2	50,900
			Lamartine, Town	1	30,000
			North Fond du Lac, Village	1	12,450

**APPENDIX III (continued)**

**DNR Brownfield Site Assessment Grant Awards  
As of January 1, 2011**

Recipient*	Number of Grants	Grant Amount	Recipient*	Number of Grants	Grant Amount
<b>Forest</b>			<b>Lafayette</b>		
Crandon, City	1	\$25,250	Shullsburg, City RA	1	\$29,000
<b>Grant</b>			<b>Langlade</b>		
Boscobel, City	1	30,000	Antigo, City	3	77,000
Cuba City, City	1	29,800			
Platteville, City	3	54,160	<b>Lincoln</b>		
Platteville, City RA	1	29,900	Merrill, City RA	1	30,000
Potosi, Village	1	30,000			
<b>Green</b>			<b>Manitowoc</b>		
Brodhead, CDA	2	108,800	Manitowoc, City	4	120,832
New Glarus, Village	1	15,175	Mishicot, Village	1	14,157
			<b>Marathon</b>		
<b>Green Lake</b>			Franzen, Town	1	19,400
Berlin, City	1	30,000	Hamburg, Town	1	23,100
Princeton, City	1	74,800	Marathon County	1	15,000
			Plover, Town	1	52,388
<b>Iowa</b>			Rib Falls, Town	1	17,750
Dodgeville, City	1	20,000	Wausau, City	4	165,000
Iowa, County	1	29,669	Wausau, City RA	1	30,000
Mineral Point, City	1	29,320			
			<b>Marinette</b>		
<b>Iron</b>			Crivitz, Village	1	27,600
Iron County	2	40,790	Marinette, City	5	219,880
Pence, Town	1	17,000	Marinette, County	2	120,000
			Peshtigo, City	3	148,883
<b>Jackson</b>					
Black River Falls, City	4	120,000	<b>Marquette</b>		
			Marquette County	1	30,000
<b>Jefferson</b>			Neshkoro, Village	1	26,000
Fort Atkinson, City	1	30,000	Shields, Town	1	30,000
Jefferson, City	1	30,000			
Lake Mills, City	1	30,000	<b>Milwaukee</b>		
Lake Mills, City RA	1	30,000	Brown Deer, CDA	1	39,000
			Cudahy, City	4	94,760
<b>Juneau</b>			Glendale, CDA	1	30,000
Mauston, City	2	116,000	Greenfield, City	5	307,450
			Milwaukee County	2	60,000
<b>Kenosha</b>			Milwaukee, City	43	1,227,742
Kenosha, City	12	385,200	Milwaukee, City RA	48	1,349,059
			Oak Creek, City	1	100,000
<b>Kewaunee</b>			Oak Creek, City CDA	1	29,800
Algoma, City	2	60,000	St. Francis, City	1	29,998
Kewaunee, City	1	75,000	South Milwaukee CDA	1	30,000
			Wauwatosa, City	1	30,000
<b>La Crosse</b>			West Allis, City	11	591,303
Bangor, Village	2	85,241	West Allis, City CDA	7	348,675
Onalaska, City	1	11,760	West Milwaukee, Village	1	30,000
			Whitefish Bay, Village	2	50,000



**APPENDIX III (continued)**

**DNR Brownfield Site Assessment Grant Awards  
As of January 1, 2011**

Recipient*	Number of Grants	Grant Amount	Recipient*	Number of Grants	Grant Amount
<b>Oconto</b>			<b>Rock</b>		
Gillett, City	3	\$160,000	Beloit, City	2	\$34,800
Mountain, Town	1	20,000	Clinton, Village	2	47,000
Oconto, City	4	120,837	Edgerton, City	3	69,165
Oconto, City CDA	1	100,000	Evansville, City	1	30,000
Oconto Falls, City	1	30,000	Janesville, City	5	146,901
Suring, Village	2	60,000			
<b>Oneida</b>			<b>Rusk</b>		
Oneida, County	1	30,000	Rusk, County	3	73,500
Rhineland, City	1	41,065			
<b>Outagamie</b>			<b>Sauk</b>		
Appleton, City	1	100,000	Baraboo, City	1	30,000
Appleton, City RA	3	150,000	Washington, Town	1	22,600
Kaukauna, City	5	118,667			
Little Chute, Village	1	7,800	<b>Sawyer</b>		
Outagamie County	3	73,987	Ojibwa, Town	1	29,000
Seymour, City	1	27,493	Sawyer, County	2	43,190
<b>Ozaukee</b>			<b>Sheboygan</b>		
Fredonia, Village	2	40,000	Adell, Village	1	16,667
Grafton CDA	2	56,775	Oostburg, Village	2	54,593
Mequon, City	1	30,000	Sheboygan, City RA	4	177,928
Ozaukee County	1	30,000			
Thiensville, Village	1	30,000	<b>Shawano</b>		
			Wittenberg, Village	1	30,000
<b>Polk</b>			<b>St. Croix</b>		
Clayton, Village	1	29,375	Baldwin, Village	3	116,600
Dresser, Village	1	26,300	North Hudson, Village	1	2,750
Polk County	1	30,000	River Falls, City	1	30,000
<b>Portage</b>			<b>Taylor</b>		
Almond, Village	1	46,667	Taylor County	1	25,000
Rosholt, Village	2	80,000			
<b>Price</b>			<b>Trempealeau</b>		
Fifield, Town	1	100,000	Trempealeau County	1	26,950
<b>Racine</b>			<b>Vernon</b>		
Burlington, City	1	30,000	De Soto, Village	1	24,750
Racine, City	2	59,790	Hillsboro, City	1	5,000
Racine, City RA	4	161,820	Vernon, County	2	15,304
<b>Richland</b>			<b>Walworth</b>		
Westford, Town	1	30,000	Delavan, City	10	332,160
Richland Center, City	8	252,771	Elkhorn, City	1	100,000
Richland County	1	20,000	Geneva, Town	3	99,684
			Sharon, Village	2	34,000
			Troy, Town	1	24,000
			Whitewater, CDA	2	120,000

**APPENDIX III (continued)**

**DNR Brownfield Site Assessment Grant Awards  
As of January 1, 2011**

Recipient*	Number of Grants	Grant Amount	Recipient*	Number of Grants	Grant Amount
<b>Washburn</b>			<b>Winnebago</b>		
Birchwood, Village	1	\$33,000	Menasha, City	1	\$30,000
Washburn County	1	11,428	Neenah, City	1	30,000
<b>Washington</b>			Neenah, City CDA	1	97,000
West Bend RA	1	100,000	Oshkosh, City	3	192,000
<b>Waukesha</b>			Oshkosh, City RA	2	108,500
Brookfield, City	1	100,000	Winnebago County	3	81,000
Elm Grove, Village	1	5,681	<b>Wood</b>		
Menomonee Falls, Village CDA	1	99,800	Marshfield, City	1	30,000
New Berlin, City	1	10,000	Pittsville, City	1	20,000
Sussex, Village	1	30,000	Wisconsin Rapids, City	2	130,000
Waukesha, City RA	1	30,000	Wood, County	1	<u>30,000</u>
<b>Waupaca</b>			Total Grant Awards**	464	\$16,696,146
Clintonville, City	1	99,799	Appropriation**		\$16,645,700
New London, City	1	30,000			
Ogdensburg, Village	1	18,000			
Waupaca, County	2	55,000			

\* Municipalities located in more than one county are listed under the county in which the largest portion of the property value is located.

\*\* Grant awards exceed the appropriation because unexpended grant funds may be awarded to a different municipality later.

RA = Redevelopment Authority  
 CDA = Community Development Authority  
 HA = Housing Authority

**APPENDIX IV**

**Appropriations from the Environmental Management Account of the Environmental Fund  
2008-09 through 2010-11**

		2008-09		2009-10		2010-11	
		Funding	Positions	Funding	Positions	Funding	Positions
<b>Natural Resources (370)</b>							
(2)(dv)	Environmental repair; spills; abandoned containers (state-funded cleanup)	\$2,441,700		\$2,292,700		\$2,292,700	
(2)(mq)	Air and waste operations	3,201,200	32.25	3,399,400	33.75	3,297,000	33.75
(2)(mr)	Brownfields operations	367,600	3.00	283,900	3.00	283,900	3.00
(2)(du) *	Site specific remediation	2,324,300		3,177,800		3,000,000	
(2)(fq)	Indemnification agreements	0		0		0	
(3)(mq)	Enforcement and science operations	1,182,200	8.08	1,176,900	8.58	1,165,500	8.58
(4)(ar)	Groundwater management	91,900		91,900		91,900	
(4)(mq)	Water operations	3,526,100	29.67	3,344,400	29.67	3,344,300	29.67
(4)(au) *	Cooperative remedial action; contributions	0		0		0	
(4)(av) *	Cooperative remedial action; interest on contributions	200		0		0	
(6)(cr)	Well compensation grants	294,000		276,000		276,000	
(6)(et)	Brownfield site assessment grants	1,700,000		1,595,700		1,595,700	
(6)(eu)	Brownfields green space grants	500,000		469,300		469,300	
(7)(bq) **	Debt service - Remedial action	3,698,100		3,868,000		4,352,700	
(7)(er) **	Debt service - Administrative facilities	405,400		477,100		607,700	
(7)(br) **	Debt service - Contaminated sediment cleanup	0		381,800		635,200	
(7)(ct) **	Debt service - water pollution abatement	0		0		8,000,000	
(8)(mv)	Administration and technology operations	937,300		1,157,400		1,203,400	
(9)(mv)	Customer assistance and external relations operations	797,800	4.21	856,900	4.25	856,900	4.25
<b>Commerce (143)</b>							
(1)(qm)	Brownfields grant program	7,000,000		6,570,500		6,570,500	
<b>Health and Family Services (435)</b>							
(1)(q)	Groundwater and air quality standards	306,000	2.00	312,100	2.00	312,200	2.00
<b>Military Affairs (465)</b>							
(3)(t)	Emergency response training	7,700		7,600		7,600	
<b>University of Wisconsin System (285)</b>							
(1)(r) *	Environmental education; environmental assessments	<u>114,600</u>	<u>      </u>	<u>69,200</u>	<u>      </u>	<u>171,000</u>	<u>      </u>
Total SEG Environmental Management Account Appropriations		\$28,896,100	79.21	\$29,808,600	81.25	\$38,533,500	81.25

\* Appropriations are continuing and show the currently estimated revenue that would be available solely for the purposes of the appropriation, rather than the Chapter 20 amount.

\*\* Debt service appropriations are sum sufficient and show actual expenditures in 2008-09 and 2009-10 and estimated expenditures in 2010-11.