

Solid Waste Recycling and Waste Reduction Programs



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Solid Waste Recycling and Waste Reduction Programs

In the 1980s, concerns about landfill capacity and the environmental impacts of solid waste disposal, in combination with increasing interest in recycling, brought attention to solid waste management in Wisconsin and served as the impetus for implementation of several state initiatives to more effectively manage this waste.

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

The purpose of this paper is to describe major, statewide solid waste recycling and waste reduction regulations, financial assistance programs, and educational and technical assistance initiatives currently in place in Wisconsin. Most of the solid waste management and recycling regulations and financial and technical assistance are administered by the Department of Natural Resources (DNR).

DNR administers the municipal and county recycling grant program that provides financial assistance to responsible units of local government for a portion of eligible recycling expenses. The grant program is the largest cumulative expenditure of state recycling funds and is appropriated \$19 million for grants to responsible units in each of calendar year 2012 (2011-12) and 2013 (2012-13). In 2011 Act 32, a recycling consolidation grant program was created and funded with \$1 million in each of 2011-12 and 2012-13.

The paper also describes revenues and funding levels for recycling programs. Prior to 2011-12, recycling revenues were deposited in the segregated recycling and renewable energy (recycling) fund, from which appropriations were made for state recycling programs. The fund received revenue from the recycling surcharge, recycling tipping fee, and electronics recycling fees. In 2011 Wisconsin Act 32, the 2011-13 biennial budget act, the recycling fund was repealed. Recycling tipping fee and electronics recycling fee revenues, and recycling program appropriations were transferred to the segregated environmental management account of the environmental fund.

While this paper focuses on recycling financial assistance and regulatory programs, it also briefly discusses other programs related to recycling, recycling provisions administered by agencies other than DNR, and activities funded from the former recycling fund. These programs are administered by the Department of Safety and Professional Services, University of Wisconsin Systems, Department of Transportation and Department of Agriculture, Trade and Consumer Protection.

Appendix I provides a summary table of funding and positions during 2010-11 through 2012-13 for the programs discussed in the following sections. Appendix II provides a summary table of recycling fund cumulative revenues and expenditures from 1990-91 through 2010-11. Other appendices discuss various aspects of recycling program provisions.

SOLID WASTE AND RECYCLING PROGRAM REQUIREMENTS

Solid Waste Management Policy

The state's solid waste management policy, established in s. 287.05 of the statutes, declares that maximum solid waste reduction, reuse, recycling, composting and resource recovery is in the best interest of the state in order to protect public health, to protect the quality of the natural environment and to conserve resources and energy.

The policy also states that implementation of solid waste reduction, reuse, recycling, composting and resource recovery systems and operations should involve and encourage the cooperation of individuals, state and local governments, tribes, schools, private organizations and businesses. The statutes specify that state government should achieve this involvement and cooperation by relying to the maximum extent feasible on technical and financial assistance, educational and managerial practices, and that necessary regulations should be developed with maximum flexibility. These policies are summarized in Appendix III.

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

Bans on Landfilling and Incineration

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

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

1991 Bans

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

PCBs (polychlorinated biphenyls).

1993 Bans

As of January 1, 1993, no person may dispose of yard waste in a landfill or in any other solid waste disposal facility, except a land spreading facility approved in accordance with solid waste laws. Yard waste includes leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than six inches in diameter. Yard waste does not include stumps, roots or shrubs with intact root balls. A "land spreading facility" is defined as a solid waste disposal facility in which solid waste is placed in thin layers onto the surface of the land or incorporated into the surface layers of the soil. The ban also prohibits burning yard waste without energy recovery.

The Department of Natural Resources is authorized to grant a waiver to the yard waste landfilling prohibition to allow the burning of brush or other clean, woody vegetative material that is no greater than six inches in diameter at wood burning facilities that are licensed or permitted by DNR. The statutes specify that DNR is not required to promulgate the policy that establishes conditions for this waiver as an administrative rule.

Under 2009 Wisconsin Act 55, effective in November, 2009, the ban on landfilling yard waste does not apply to the disposal of plants classified by DNR as invasive species or their seeds. Persons are allowed to dispose of invasive plants in a landfill if the plants or seeds are not commingled with other yard waste.

1995 Bans

As of January 1, 1995, no person may landfill, burn with or without energy recovery, or convert into fuel, any of the following waste materials: (a) aluminum containers; (b) corrugated paper or other container board; (c) foam polystyrene

packaging (packaging made primarily from foam polystyrene that either: (1) is designed for serving food or beverages; (2) consists of loose particles intended to fill empty space and cushion the packaged article; or (3) consists of rigid materials shaped to hold and cushion a packaged article); (d) glass containers; (e) magazines or other material printed on similar paper; (f) newspapers or other material printed on newsprint; (g) office paper; (h) plastic containers (plastics #1 through #7 required to be labeled under the plastic container labeling law); (i) steel containers; and (j) containers for carbonated or malt beverages that are primarily made from a combination of steel and aluminum (known as "bi-metal" cans). In addition, waste tires cannot be landfilled or burned without energy recovery, but can be burned with energy recovery.

2010 Bans

As of September 1, 2010, 2009 Wisconsin Act 50 requires that no person may landfill, burn with or without energy recovery, or place in a container the contents of which will be landfilled or burned, electronic devices, which include the following: (a) a peripheral (such as a computer keyboard, mouse or speaker that provides input or output from a consumer computer); (b) a facsimile machine; (c) a digital video disc player; (d) a digital video player that does not use a disc and that is not a camera; (e) a video cassette recorder; (f) a video recorder that does not use a cassette and that is not a camera; (g) a covered electronic device; and (h) a telephone with a video display (cell phones). A "covered electronic device" means a consumer video display device (television or computer monitor), computer or printer marketed for use by households or schools. DNR is authorized to add or subtract electronic devices from this list by promulgating administrative rule changes on or after October 1, 2011, but has not done so as of January 1, 2013. The act also established a recycling program for covered electronic devices and additional eligible electronic devices, which

is summarized in a later section of this paper.

Landfill operators are required to make a reasonable effort to manually separate, and arrange to have recycled, a television, a laptop computer, or computer monitor that is readily observable in the solid waste that is delivered to the landfill. This does not apply if: (a) separating the device is not practical; (b) separating the device would require the operator to implement measures to protect human health or safety in addition to any measures taken in the ordinary course of business; or (c) the device has been damaged in such a way that recycling is not feasible or practical.

Before September 1, 2010, businesses, governments, schools, colleges and universities were already required to recycle their electronics or manage their electronic devices as hazardous waste.

2011 Bans

As of July 1, 2011, 2011 Wisconsin Act 32 requires that no person may place in a container the contents of which will be disposed of in a solid waste disposal facility, converted into fuel, or burned at a solid waste treatment facility, any of the materials subject to the 1995 landfill bans. In addition, no person may place a waste tire in a container the contents of which will be disposed of in a solid waste disposal facility or burned without energy recovery in a solid waste treatment facility.

As of January 1, 2011, 2009 Wisconsin Act 86, as amended by 2011 Wisconsin Act 152, requires that no person may dispose of a used oil filter in a landfill or solid waste disposal facility. An oil filter is any filter for automotive engine oil.

As of April 7, 2012, no person may dispose of oil absorbent materials (materials that are used to absorb waste oil) in a landfill or solid waste facil-

ity unless both of the following apply: (a) waste oil has been drained so that no visible signs of free-flowing oil remain in or on the oil absorbent materials; and (b) the oil absorbent materials are not hazardous waste.

Exceptions to the Bans

Exceptions to the 1995 bans are made for: (a) incidental amounts of the banned materials generated in a region that has an effective recycling program; (b) certain materials incinerated in a grandfathered incinerator; (c) incinerators that burn solid waste as a supplemental fuel; (d) certain medical waste; (e) unexpected emergency conditions; (f) certain woody materials burned in approved wood burning facilities; (g) beneficial reuse of a material within a landfill; (h) contaminated materials; and (i) certain plastics if recycling is not feasible. A more detailed discussion of these exceptions is contained in Appendix IV. (Incidental amounts refers to banned materials that are not separated for recycling within an effective program, including items the consumer fails to separate, and nonrecyclable items, such as newspapers used for cleaning windows, plastic milk containers used for waste oil and broken glass containers.)

Enforcement of Bans

DNR is authorized to issue a citation to any person who violates any of the bans. The forfeitures that may be collected through a citation for violation of these requirements are \$50 for the first violation, \$200 for the second and \$2,000 for the third or subsequent violation. The Attorney General is authorized to enforce the 1995 and 2010 bans by seeking injunctive relief against any person who violates them.

DNR's implementation of the recycling law emphasizes achieving voluntary compliance through technical and financial assistance rather than enforced compliance through the imposition

of penalties or injunctions. However, the Department works with responsible units to identify violations of local recycling ordinances by waste haulers or landfills.

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

DNR issued one notice of noncompliance to a hauler in 2009 in response to a complaint that a driver had mixed sorted recyclables with solid waste. The hauler returned to compliance within the 30-day required timeframe. DNR staff also responded to citizen inquiries or complaints about possible cases of landfilling of mixed recyclables and trash by haulers. DNR has not issued any notices of noncompliance since then, but is developing guidance for haulers related to the requirements to separate recyclables from solid waste.

DNR has referred a small number of cases related to the landfill bans to the Department of Justice for enforcement action, as part of enforcement of other solid waste violations, but none in 2010 through 2012. Examples of other violations include landfill license violations, open burning, improper storage of solid or hazardous waste or recyclable materials at nonlicensed sites, and improper hauling or processing.

In addition to state enforcement, if a local government has an "effective recycling program," it must take actions to enforce the 1995 bans. This is described in the section on local government responsible units.

DNR is authorized 2.4 positions from the environmental management account in 2012-13 for recycling enforcement that is provided by allocating a portion of the time of environmental wardens throughout the state. DNR regional recycling specialists also work on enforcement issues.

Local Government Responsible Units

The statutes establish several responsibilities for local government related to recycling. In general, the local units of government responsible for implementing state-mandated recycling programs are termed "responsible units." Under the recycling law definition, the responsible unit for a geographic area is the municipality (city, village or town) unless a county takes specific action to create a responsible unit. Currently, every municipality in the state is included within one of 1,059 responsible units. For 2012, almost all responsible units (1,026 of 1,059), representing 99% of the state's population, received state-funded grants for a portion of the costs of operating local recycling programs.

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

Duties and Powers of Responsible Units

Each responsible unit must develop and implement a program to manage the solid waste generated within its jurisdiction in compliance with the 1991, 1993 and 1995 bans and the state's solid waste management priorities. The allowable ways this may be done are: (a) manage materials subject to the 1995 bans in an "effective recycling program" and comply with the 1991 and 1993 bans; or (b) burn combustible materials subject to the 1995 bans in a "grandfathered" incinerator (described in the section on exceptions to the bans), manage the non-combustibles in an effective recycling program and comply with the 1991 and 1993 bans.

As of February 1, 2010, 2009 Act 50 required each responsible unit to provide information to people in its region about the electronic device landfilling ban, why it is important to recycle electronic devices, and opportunities available to those persons for recycling electronic devices.

Responsible units are authorized to designate one or more persons to implement specific components of the solid waste management program and are authorized to adopt an ordinance to enforce this program.

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

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

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

Effective Recycling Programs

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

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

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

Local programs are required to submit an annual report to DNR that outlines their effective recycling program. DNR field staff review the reports and perform program evaluations to determine the compliance of the responsible unit with the effective program requirements. Between 1996 and 2004, 11 responsible units were placed on probation due to noncompliance issues or failure to submit their annual recycling report to DNR. They corrected the problems in their recycling program and were returned to effective program status.

The Department indicates that, beginning in 2005, it moved toward a more systematic monitoring and tracking of compliance by responsible units with effective program criteria. In 2009, DNR completed upgrades to the recycling program data system that allowed responsible units to submit annual reports electronically, started to more strictly enforce deadlines for submitting reports, and notified responsible units that late submittal of complete reports would jeopardize their approved program status and eligibility for grants. In 2011, DNR sent reminders and warnings to responsible units that were late in submitting the required annual report, sent notices of noncompliance to 15 responsible units that failed to submit a complete annual report, and subsequently sent two notices of violation to responsible units that did not respond to the notice. The

cases were resolved through a DNR stepped enforcement process.

DNR regional staff conduct at least 100 evaluations of responsible units per year (20 in each DNR region), either with individual responsible units, or in workshop sessions with groups of responsible units, to review compliance with the effective program criteria. In 2011 and 2012, the Department also held online webinar sessions to assist responsible units in complying with effective program and annual reporting requirements, discuss recycling topics of interest, and provide opportunities for responsible units to learn from each other about ways to improve their recycling programs.

Required Components of an Effective Program

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

- An ordinance to require recycling of the banned materials in all residences and non-residential facilities and properties. The ordinance must prohibit the landfilling or burning of materials subject to the 1995 bans that are separated for recycling. The responsible unit may impose forfeitures for the violation of its recycling ordinance;
- Public education and information about how to recycle, reduce and reuse waste;
- A method for collecting, processing and marketing of recyclables from single-family and two- to four-unit residences;
- Curbside collection in municipalities with populations of 5,000 or greater and a popu-

lation density greater than 70 persons per square mile. These municipalities must provide, at least monthly, curbside collection from single-family and two- to four-unit residences for at least newspaper, glass, aluminum and steel containers, plastic containers made of PETE (polyethylene terephthalate or #1 plastic) or HDPE (high density polyethylene or #2 plastic), and either corrugated paper or magazines, and must provide drop off collection for materials that are not collected curbside. Municipalities with populations of less than 5,000 or a population density of 70 persons per square mile or less are not required to provide curbside collection, but at a minimum must offer drop-off collection from single-family and two- to four-unit residences;

- Meet specific per capita total collection standards for eight recyclable materials, as shown in Table 1. Prior to July 1, 2005, the standards required responsible units to meet the collection standards for each of the recyclable materials. Effective July 1, 2005, administrative rule changes establish the collection standards as the total amount for all of the listed banned materials;

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

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

*A responsible unit must meet the total collection standard, except that a multiple-municipality responsible unit with a membership of rural and other municipalities may meet a prorated standard for each material by the entire responsible unit.

**Rural municipalities are those with a population of 5,000 or less or a permanent population density of less than 70 persons per square mile. Municipalities that do not meet that population criterion fall into the other category.

- Equipment and staff necessary to operate and enforce the program;
- Provisions for the management of post-consumer waste that is generated within the responsible unit;
- A reasonable effort to reduce the amount of recyclable materials subject to the 1995 landfill bans, that are generated as solid waste and disposed of in a landfill.
- Beginning August 1, 2006, a compliance assurance plan describing the procedure the responsible unit will follow to address, at a minimum, one commonly encountered type of non-compliance with recycling requirements specified in its recycling ordinance; and
- Submittal of an annual program report to DNR that contains specified information and describes how the local program meets state requirements.

Required Components of a Recycling Ordinance

Administrative rule NR 544 requires that the recycling ordinance adopted by any responsible unit with an effective recycling program must include the following requirements:

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

- Owners of non-residential properties must notify, at least semi-annually, all users, tenants, and occupants of the properties of how to appropriately recycle materials that are subject to the landfill bans; and

- Enforcement must include penalties consistent with statewide enforcement provisions.

Implementation of Effective Recycling Programs

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

In 2011, 36% of the state's population lived in responsible units that only had curbside collection programs, 57% lived in responsible units with combination of curbside and drop-off collection and 7% lived in responsible units where only drop-off collection was reported as the primary collection system. The percentage of responsible units with a combination of curbside and drop-off collection is high because: (a) approximately 25% of the population of the state is served by county responsible units, in which some member communities may have curbside collection and others have drop-off, so the county is reported as having both; and (b) in some responsible units with both curbside and drop-off programs, the drop-off collection is mainly used for items that are not picked up at curbside.

DNR estimates that in 2011, over 99% of responsible units with populations over 5,000, had access to curbside collection or a combination of curbside and drop-off collection. Approximately two-thirds of the responsible units with popula-

tions less than 5,000, and the majority of the population in those responsible units, had access to curbside collection or a combination of curbside and drop-off collection.

Responsible units may choose to own or operate a materials recovery facility (MRF) as part of their effective recycling program, or contract with a separately-owned MRF, or neither. A materials recovery facility is a facility where materials banned from landfills, and not mixed with other solid waste, are processed for reuse or recycling. A MRF is required to submit a self-certification form to DNR that the facility complies with state requirements, before the MRF begins to serve a responsible unit. The self-certification includes information about the operations of the facility, types and amounts of materials processed, storage capacity, procedures in place to prevent nuisance conditions or discharges of contaminants to the environment from the materials, and certification that the facility produces recovered recyclable materials in accordance with market quality specifications. The MRF must also annually submit a certification renewal and report to DNR.

Responsible units reported to DNR that they collected a total of 664,676 tons of recyclable materials from residences in 2011. The amount of recyclable materials collected by responsible units in 1994 through 2011, as reported to DNR, is shown in Table 2. Approximately 61% of recyclable materials collected in 2011 were materials subject to the 1995 bans and 37% was yard waste subject to the 1993 bans. Residential recycling programs collected an average of 140 pounds per capita of the 1995 banned materials in 2011. In addition, based on optional reports of collection of other recyclable materials, responsible units collected an average of 233 pounds of recyclable materials per capita in 2011. This compares to 250 pounds in 1995 and a high of 302 pounds per capita in 1998.

Table 2: Recyclable Materials Collected by Responsible Units and Reported to DNR (tons)

Year	Materials Banned from Landfills as of 1995*	Yard Waste	Other Banned Materials**	Non-Banned Materials***	Total
1994	226,701	213,635	18,018	3,195	461,549
1995	360,669	210,288	22,598	47,316	640,871
1996	361,001	241,492	20,848	76,344	699,685
1997	389,161	280,213	25,950	71,682	767,006
1998	379,772	288,606	26,703	99,240	794,321
1999	389,381	278,275	26,668	70,994	765,318
2000	405,179	252,479	24,956	47,969	730,583
2001	403,915	260,047	23,498	39,596	727,056
2002	397,384	248,165	25,927	43,017	714,493
2003	397,596	260,396	22,097	55,521	735,610
2004	410,548	281,506	19,315	18,254	729,623
2005	410,492	283,489	15,867	18,384	728,232
2006	419,116	267,338	13,558	18,538	718,550
2007	411,047	241,149	14,001	23,521	689,718
2008	423,521	275,846	16,783	19,509	735,659
2009	410,544	270,937	12,975	15,846	710,301
2010	427,069	279,257	15,352	22,237	743,915
2011	398,536	242,676	23,463	NA	664,676

* Includes old newspapers, old magazines, old corrugated cardboard, office paper, aluminum cans, steel cans, glass containers, plastic containers, co-mingled containers and polystyrene foam.

** Includes appliances, tires, lead acid batteries, and used oil. Includes electronics as of 2010.

*** Includes scrap metal, used clothing or textiles, miscellaneous recyclables, and residential mixed paper. Includes electronics through 2009.

NA= Not available.

DNR contracted with Franklin Associates, Ltd., to conduct waste characterization studies of recyclable materials for DNR in 1990, 1995, and 2000. The Franklin studies produced estimates for the quantities of residential and commercial municipal solid waste that is generated, recycled, landfilled, and combusted in Wisconsin. The studies estimated that collected recyclable materials represented a statewide average of 34% of municipal solid waste generated in 2000 (residential and commercial solid waste). The actual recycling rates vary among municipalities.

In 2002, DNR contracted with Cascadia Consulting to conduct a municipal solid waste composition and quantification study. The Cascadia study produced an estimate of the quantity of municipal solid waste that is landfilled in the

state. DNR used the study data to analyze how successful local recycling programs have been both in diverting banned materials from landfills and in determining the average amounts and ranges of recyclable materials found in the waste stream, and diverted from landfills. As DNR analyzed the study data, the Department also estimated an overall landfill diversion rate, which factored recycling, plus combustion of solid waste with energy recovery, plus yard waste managed at home. The estimated landfill diversion rate was 40.4% in 2000 to 2002.

DNR estimates of the recycling rates for several recyclable materials are shown in Table 3. Table 3 includes estimates made by DNR with data from 2000 to 2002, 2005 to 2006, and 2009.

Table 3: DNR Estimates of the Recycling Rate for Various Materials and Landfill Diversion Rate

Material	Estimated Recycling Rate *
(2000 to 2002 Data)	
Lead acid batteries, major appliances and tires	over 95%
Yard waste	78%
Corrugated cardboard	72%
Newspaper	67%
Glass containers	57-74%
Aluminum and steel cans	approx. 55%
Plastic containers	41-51%
Magazines	31-35%
Office paper	28-57%
2002 Overall average landfill diversion rate **	40.4%
2005 to 2006 Overall average landfill diversion rate **	36%
(2009 Data) ***	
Glass containers	75%
Aluminum containers	42%
Steel cans	42%
Uncoated cardboard	59%
Other recyclable paper	56%
PET bottles and non-bottles	19-35%
HDPE bottles	45%
#3-7 bottles	17%
Other plastic packaging	8%

* Does not include recycling that takes place through direct redemption, such as aluminum cans, or direct sales of recovered materials by generators, such as grocery stores recycling cardboard boxes.

**The DNR estimate includes recycling, plus combustion with energy recovery, plus yard waste managed at home.

*** DNR indicates it does not have sufficient data to estimate the landfill diversion rate in a year more recent than 2006.

DNR used data from annual reports submitted by responsible units in 2005 and 2006 to estimate that collected recyclable materials represented a statewide average of 24% of municipal solid waste generated. DNR also estimated that the total diversion rate, including composting or yard waste managed at home (10%), and incineration with energy recovery (3%), represented approximately 36% of municipal solid waste generated.

In 2009, DNR contracted with Recycling

Connections Corporation and MidAtlantic Solid Waste Consultants, LLC to conduct a follow up statewide waste characterization study. A 2010 final report for the study included estimates of the quantity and composition of municipal solid waste disposed of in landfills by Wisconsin households, businesses, and institutions. In general, the study found that less waste was landfilled in 2009 than in 2002, likely due to the economic slowdown in 2009, and the composition of waste was similar to that of 2002. DNR officials indicate study data was not sufficient to update the estimate of the overall average landfill diversion rate. However, DNR has updated estimates of the recycling rate for various recyclable materials. This is shown in Table 3.

Enforcement of Effective Program Requirements

DNR did not issue any notices of noncompliance to responsible units between 2004 and 2008. DNR issued one notice of noncompliance in 2009 to a responsible unit related to open burning of materials, including recyclables, at the local drop-off facility. Corrective actions were taken and the case was closed. DNR sent out 13 notices of noncompliance to responsible units in 2011 and 44 in 2012 for failure to submit an annual report by June 30. In 2011 notices of violation were issued to two responsible units, and one in 2012 after issuance of the notice of noncompliance. The responsible units subsequently submitted their annual report.

In 2009 through 2012, DNR notified a few responsible units of minor noncompliance issues through letters, discussions or meetings, but the issues were not serious enough to issue a notice of noncompliance. Examples of noncompliance concerns included responsible units not doing a sufficient job of: (a) providing adequate collection of recyclables; (b) requiring businesses to recycle; (c) inspecting businesses or apartments for compliance; (d) completing a compliance assurance plan; and (e) submitting an annual report

in a timely manner. DNR negotiated corrective action with the responsible units, and all required corrective action was completed. No responsible unit was placed on probation during the three years.

DNR has worked with responsible units on a few cases where the responsible unit took enforcement action against a waste hauler that was collecting separated recyclables with solid waste and landfilling all of the materials.

In 2011, responsible units reported to DNR that they took the following actions related to enforcing landfill bans: (a) received 8,881 complaints; (b) issued 1,476 verbal warnings; (c) issued 19,698 tags or written warnings for trash with recyclables in it; (d) issued 1,515 citations; and (e) made 692 inspections. Almost all the actions under (a) through (d) related to recycling in one to four-unit dwellings. All of the inspections were related to multi-family dwellings and businesses. DNR does not have information about the reasons for the complaints, or the types of citations. DNR indicates most of the warnings were tags placed on trash cans that had recyclables in them.

Exceptions, Variances and Waivers to the Effective Program Criteria

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

There are certain exceptions to the 1995 bans which apply to effective recycling programs. These include exceptions for materials in regions with a grandfathered incinerator, incinerators that

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

In October, 1996, DNR issued a waiver to the collection and disposal requirements for #3 through #7 plastic containers and polystyrene foam packaging, based on a departmental study that indicated that it is not feasible or practical to continue collecting these materials under current market conditions. The waiver has been in effect for over 16 years and will continue until one year after DNR determines that markets are available for these materials. In July, 2012, DNR contracted for a study of plastics recycling in the state, including a review of the plastic waiver.

Pilot Program for Alternative Compliance With Effective Program Requirement

In 2001 Act 16, a pilot program was created to offer up to nine responsible units an alternative method of complying with the effective recycling program requirements of materials to be recycled by allowing them to select materials to be recycled instead of the materials subject to the 1995 landfill and incineration bans. Participation in the program was voluntary. The pilot program ended on December 31, 2005.

The pilot program was implemented through an amendment to administrative rule NR 544. Responsible unit applicants were required to identify materials to be recycled from at least four of seven categories listed in the rule (paper, organics, metal, glass, plastic, special wastes, and

other waste) and at least nine of the 29 materials listed.

The City of Kenosha was the only applicant for the pilot program. DNR approved Kenosha's pilot program and the program began to operate in 2004. The City chose to eliminate curbside collection of glass, and instead, offer residents an opportunity to drop off some construction materials such as clean wood, concrete, stone, brick and masonry for recycling at designated locations. There was public resistance to eliminating the collection of glass. Kenosha discontinued its participation in the pilot program in 2005, resumed recycling glass, and switched to single stream collection of recyclables. Single stream collection is a system where all of the recyclables being collected (such as newspaper, cardboard, plastic, and glass) are mixed together in a collection truck, instead of being sorted by the resident, and are transported to a processing facility to be sorted into marketable commodities. DNR officials indicate that Kenosha's experience demonstrated that: (a) municipalities need to anticipate the public commitment to recycling banned materials in an established local program; and (b) responsible units are reluctant to make a significant change in an established recycling program unless the changes have been thoroughly evaluated, and can be continued beyond the duration of the pilot program.

Out-of-State Waste

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

Solid Waste Haulers

Haulers who collect and transport solid waste are required to be licensed by DNR under solid waste management statutes and are required to comply with the solid waste landfill bans. Administrative rule changes effective July 1, 2005, require haulers who collect and transport municipal solid waste to notify their clients (the contracting entity or the entity that arranges for collection and transportation service) of the need to comply with state and local recycling requirements. Haulers are also required to provide information to responsible units about the amount of recyclable materials collected under contract with the responsible unit, within four weeks of a written request from the responsible unit.

DNR sends annual letters to licensed haulers of solid waste and recyclable materials as part of the annual license renewal process to review the recycling and landfill ban requirements. This includes reminding haulers of the requirements that haulers must: (a) annually notify their customers about state and local recycling requirements and landfill bans; (b) keep collected recyclable materials separate from solid waste; and (c) maintain separated recyclables in clean condition. In addition, DNR notifies haulers that equipment containing certain types of light bulbs might have lead or mercury levels high enough to meet the definition of hazardous waste. Hazardous wastes from businesses or institutions cannot be disposed of in Wisconsin landfills. Household hazardous wastes are not subject to this prohibition.

In 2010 through 2012, DNR notified solid waste haulers of the new bans on the disposal of certain electronics equipment, oil filters and oil absorbents. DNR also developed guidance on implementing the bans for haulers, landfill operators, auto scrap processors, and other affected businesses and facilities. DNR also reminded waste haulers about recent changes to administra-

tive rules regarding composting and allowing landfilling of certain invasive species.

Electronics Recycling Program

DNR administers the electronics recycling program established under 2009 Act 50. DNR refers to the program as "E-Cycle Wisconsin." Act 50 created requirements for sales and recycling of covered electronic devices used by households, public K-12 schools and Milwaukee and Racine Parental Choice Program schools (covered schools). It also prohibits disposal of many types of electronic devices in landfills, as described in the earlier section on the 2010 landfill bans. "Covered electronic devices" include televisions and computer monitors with a tube or screen at least seven inches at its longest diagonal measurement, computers, and printers. The act requires registration of manufacturers of electronic devices, payment of fees to support administration of the program, recycling targets, registration of collectors and recyclers, submittal of reports, and public outreach.

Manufacturers include any person who: (a) manufactures covered electronic devices to be sold under the person's own brand; (b) sells covered electronic devices manufactured by someone else under the person's own brand; or (c) licenses the person's brand for manufacture and sale of covered electronic devices by others. Collectors receive electronic devices from households or covered schools and deliver them to recyclers. Recyclers accept electronics from collectors, households and schools, for the purpose of recycling.

DNR is required to maintain an Internet site on which it lists the names of registered manufacturers, the names of brands of electronics listed in the manufacturers' registrations, and the names of

registered collectors and recyclers. DNR is also responsible for administration and collection of program fees, compliance and enforcement, and outreach.

Sale of Covered Electronic Devices

Since February 1, 2010, a manufacturer may only sell, offer to sell, or deliver to a retailer for subsequent sale, covered electronic devices to households or covered schools if the manufacturer labels the devices, recycles or arranges for recycling the devices, registers with DNR, pays annual registration fees, submits annual reports to DNR, finances and ensures the recycling of a certain amount of electronics annually, and pays shortfall fees if it recycles less than certain target amounts.

Since July 1, 2010, a retailer may only sell or offer to sell a new covered electronic device to a household or school if the retailer determines that the brand of covered electronic device is on the DNR's Internet site list of registered manufacturers. If a manufacturer's registration is revoked or expires, the retailer may only sell the covered electronic device within 180 days after the revocation or expiration. A retailer is required to provide information to purchasers describing how eligible electronic devices can be collected and recycled, and a description of the ban on disposing of the devices in landfills or incinerators.

Manufacturer Registration and Fees

Manufacturers are required to register with DNR annually by September 1. Manufacturers are required to include information in the registration about: (a) the brands of covered electronic devices they sell in the state; (b) the total weight sold to households and covered schools in the program year two years earlier; and (c) a description of how the manufacturer calculated the weight sold. Beginning with the September 1, 2010, annual registration, a manufacturer must

also include information in its registration about: (a) the total weight of eligible electronic devices used by households or covered schools that were collected by or delivered to the manufacturer for recycling or collected by or delivered to a registered recycler on behalf of the manufacturer during the preceding program year; (b) the number of recycling credits that the manufacturer purchased, sold or used to calculate its shortfall fees (first required in the 2011 report); and (c) whether or not the manufacturer's covered electronic devices comply with European Union restrictions on the presence of hazardous substances in electrical and electronic equipment.

A manufacturer pays annual registration fees based on the number of covered electronic devices it sold during the previous program year. The fees include: (a) \$0, if less than 25 devices were sold; (b) \$1,250 if 25 to 249 devices were sold; and (c) \$5,000 if at least 250 devices were sold. Beginning in November, 2011, DNR may promulgate an administrative rule to change the registration fee for manufacturers that sell at least 250 devices in the state annually. As of the fall of 2012, DNR has not initiated such rule changes. The fees are deposited in the environmental management account of the environmental fund, are only available for expenditure under an appropriation for DNR administration of the electronics recycling program, and cannot be used for other appropriations from the fund.

In the third program year of July 1, 2011, through June 30, 2012, 79 manufacturers registered 125 brands of covered electronic devices. For July 1, 2012, through June 30, 2013, 78 manufacturers submitted registrations in the fall of 2012. DNR collected \$261,250 in registration fees in 2009-10, \$270,000 in 2010-11, and \$275,000 in 2011-12. DNR anticipates it will collect \$270,000 in registration fees in 2012-13.

Recycling Targets, Shortfall Fees, and Credits

A manufacturer is required to achieve a recycling

target every year, that is, to achieve a specified amount of recycling of electronic devices, as determined by weight and a specified formula. A manufacturer must recycle 80% of the weight of covered electronic devices it sold to households and covered schools during the 12-month period two years earlier.

A manufacturer may recycle a broader category of "eligible electronic devices" to meet its recycling target. Eligible electronic devices include covered electronic devices (computers, printers, monitors, and televisions), plus devices used by households or covered schools that include computer peripherals (such as keyboards, external hard drives, flash drives, modems, mice, scanners, and speakers used with a computer), facsimile machines, digital video disc (DVD) players, video cassette recorders (VCR), and digital video recorders or players that do not use discs or cassettes. DNR is authorized to promulgate administrative rule changes, as of October 1, 2011, to add or subtract types of electronic devices from the list of eligible electronic devices. As of the fall of 2012, DNR has not initiated such rule changes.

If the manufacturer does not meet its recycling target, that is, it recycles substantially less electronic devices than it sells, as calculated by a specified formula, it must pay an annual shortfall fee to DNR. The first year that a shortfall fee was due to DNR was with the September 1, 2011, report. When a manufacturer submitted its annual registration by September 1, 2011, it was required to report on the weight of eligible electronic devices that it recycled during program year two, from July 1, 2010, to June 30, 2011. The manufacturer was required to pay a shortfall fee if it did not recycle enough electronic devices to reach its recycling target. For the program year from July 1, 2010, to June 30, 2011, the recycling target was calculated by multiplying the total weight of covered electronic devices sold to households and covered schools between July 1, 2008, and June 30, 2009, by 0.8.

In their September 1, 2011, registration submittal, manufacturers reported the total actual weight of eligible electronic devices (which is broader than the category of covered electronic devices used to calculate the recycling target) used by households or covered schools that were collected by or delivered to the manufacturer for recycling between July 1, 2010, and June 30, 2011. The manufacturer is allowed to multiply the total recycled weight by 1.25 for eligible electronic devices that it collects in rural counties. This is intended to provide an incentive for manufacturers to collect eligible electronic devices for recycling in rural areas. The statutes designate 33 urban and 39 rural counties for purposes of the collection incentive.

Shortfall fees are calculated on a graduated scale determined by how short of the target recycling weight the manufacturer's actual collections were. The fees are calculated by first subtracting the actual recycling weight (including any adjustment for collections in rural counties) from the target recycling weight. The resulting number of pounds is used to calculate the shortfall fees as follows: (a) 50 cents per pound if the actual weight recycled is less than 50% of the target recycling weight; (b) 40 cents per pound if the actual weight recycled is at least 50% but not more than 90% of the target recycling weight; and (c) 30 cents per pound if the actual weight recycled is more than 90% and less than 100% of the target recycling weight.

For the program year ending June 30, 2011, 20 manufacturers were assessed shortfall fees totaling \$8,453 in 2011-12. DNR anticipates manufacturers will pay shortfall fees of up to approximately \$24,500 in 2012-13. The shortfall fees collected by DNR are deposited in the environmental management account for expenditure by DNR only under the electronics recycling administrative appropriation.

A manufacturer earns a recycling credit if, for

a program year, the weight of eligible electronic devices recycled exceeds the target recycling weight. The manufacturer would be entitled to a number of recycling credits equal to the number of excess pounds or 20% of the target recycling weight, whichever is less. During the three succeeding program years, the manufacturer could use the credits to help meet its recycling target during that time, or could sell the credits to another manufacturer.

A manufacturer may submit, with its registration, a request for relief from the shortfall fee in that year. The manufacturer would have to submit information showing that it made good faith progress toward meeting its target recycling weight. If DNR determines that the manufacturer has made good faith progress toward meeting its target recycling weight, the Department would waive the shortfall fee. If not, DNR would notify the manufacturer, and the manufacturer would have to pay the shortfall fee within 60 days after receiving the notification.

Collectors and Recyclers

Collectors and recyclers are required to register with DNR annually by August 1 beginning in 2010 (by January 1, 2010, for the first program year). Collectors are required to report to DNR the total weight of eligible electronic devices collected during the preceding program year, and the names of the recyclers to whom the collector delivered the electronic devices. Registered collectors and recyclers may not use prison labor to collect or recycle eligible electronic devices.

Registered recyclers are required to meet additional requirements. The main requirements are to: (a) maintain liability insurance of at least \$1,000,000 for environmental releases, accidents, and other emergencies; (b) provide proof of financial responsibility in an amount sufficient to cover the reasonable costs of closing the facilities at which recycling is conducted; (c) maintain

records of the total weight of eligible electronic devices recycled by the recycler; (d) maintain records of who received the materials derived from eligible electronic devices recycled by the recycler; (e) prepare and maintain a contingency plan for responding to releases of hazardous substances; and (f) certify that it complies with federal, state, and local requirements for storage, transportation, processing and exporting eligible electronic devices.

Collectors and recyclers are not subject to registration fees. Information reported to DNR for program year three showed that, as of July 1, 2012, 152 collectors and 32 recyclers had registered with DNR. Between July 1, 2010, and June 30, 2011, registered collectors collected 35.1 million pounds of eligible electronics at registered collection sites (including at all permanent, temporary or event sites, and permanent sites registered for part of the year). For the year July 1, 2011, through June 30, 2012, 133 active registered collectors reported collecting 39.1 million pounds of eligible electronics. Of the total amount collected in 2011-12, 62% of the weight collected was televisions, 11% was computer monitors, 9% was computers, and 18% was other eligible electronics such as printers.

DNR is authorized to audit, or contract for the audit of a registered collector or recycler. If the Department does so during the first three years in which the collector or recycler is registered, the collector or recycler will be required to pay 25% of the cost of the audit. After the first three years, the collector or recycler will pay 50% of the cost of the audit. The costs paid by the collector or recycler will be deposited in the electronics recycling appropriation.

Penalties

Manufacturers are subject to a forfeiture of not more than \$10,000 per violation of the electronics recycling statutes. Others, including col-

lectors and recyclers, are subject to a forfeiture of not more than \$1,000 per violation.

DNR Duties and Administration

DNR allocates 2.0 positions from the environmental management account to administer the electronics recycling program. Of this total, \$152,300 in 2011-12 and \$128,600 in 2012-13 with 1.0 position is appropriated in an environmental management account appropriation which is authorized to spend only any electronics registration and shortfall fees. The remaining 1.0 position is appropriated through the existing DNR recycling administrative appropriation, and is funded from environmental management account revenues other than the electronics fees.

DNR utilizes the positions to coordinate the program, interpret policy, prepare guidance documents, develop administrative rules, manage and track registrations, manage annual reporting by entities regulated by the program, collect fees, prepare reports required under the act, maintain a computer system for the program, provide outreach and technical assistance, perform enforcement and compliance, and conduct inspections of registered recyclers and collectors.

DNR Legislative Reporting Requirements

Under 2009 Act 50, DNR is required to prepare the following reports related to the electronics recycling program.

1. DNR was required to evaluate the accuracy of the information submitted by manufacturers related to the weight of covered electronic devices sold in the state in 2010 and whether the weight of each manufacturer's covered electronic devices should be based on national sales data obtained from third parties. The Department was required to report the results of the evaluation to the Legislature and Governor by December 1, 2011. DNR submitted the report in December,

2011, and reported: (a) manufacturers seem to be making an honest effort to compile complete and correct sales data; and (b) manufacturers find it challenging to isolate data specific to Wisconsin. DNR recommended continuing with: (a) implementing the current system of having manufacturers submit their sales weights to determine recycling targets; (b) checking manufacturers' submitted sales weights against figures from national sales data; and (c) working with other states to improve the system of setting manufacturer recycling targets.

2. DNR was required to study methods to ensure the proper recycling and disposal of electronic waste generated in schools. The Department was required to submit a report of the results of the study, including its recommendations, to the Legislature's standing committees with jurisdiction over environmental matters by November 1, 2010. DNR officials submitted the report in December, 2011. DNR reported that: (a) it conducted an online survey of schools in the summer of 2011 to find out what schools knew about the electronics ban and what they were doing to properly recycle electronics; (b) almost all eligible electronic devices from schools are being reused or recycled; and (c) the Department plans additional outreach to schools and recyclers about the electronics recycling program.

3. DNR is required to submit an annual report by December 1, beginning in 2012, to the Legislature and Governor, which includes the following: (a) the total weight of eligible electronic devices; (b) a summary of the information provided by manufacturers and recyclers under the program; (c) information about the recycling programs used by manufacturers to recycle eligible electronic devices; (d) information about the collection and recycling of eligible electronic devices by persons other than registered manufacturers, collectors, and recyclers; (e) information about disposal of eligible electronic devices in landfills and burning of such devices in solid

waste treatment facilities in the state; (f) a description of actions taken to enforce the requirements of the program; and (g) any recommendations of whether to apply the requirements for sale of covered electronic devices to additional kinds of devices.

DNR submitted the first annual report on November 30, 2012. The Department reported: (a) by the end of 2012, Wisconsin households and schools will have recycled almost 100 million pounds of electronics through the program; (b) almost all manufacturers met or exceeded their recycling targets, with only a small number paying a shortfall fee; (c) during 2011-12, there were electronics collection sites in 69 of 72 counties, covering 99.5 percent of the state's population; (d) the vast majority of manufacturers, recyclers and collectors are complying with the law; (e) some Wisconsin residents are not aware of the law and may still be putting electronics in the trash; (f) the cost of recycling some electronic components is posing economic challenges to recyclers and manufacturers; (g) the large amount of electronics collected has put downward pressure on the payments recyclers receive per pound they process; and (h) some recyclers and collectors not participating in the program may be mismanaging electronics components. DNR recommended to: (a) make changes in manufacturer reporting requirements; (b) eliminate registration fees for small manufacturers; (c) establish a grant program to fund electronics collection sites or events for areas or populations currently underserved by the program; and (d) modify the definition of covered school to include all K-12 schools (currently K-12 public schools and private schools participating in the Parental School Choice program).

4. If the federal government enacts a law relating to the collection and recycling of covered electronic devices sold in the United States, DNR will be required to prepare a report describing the effect of the federal law and to submit it to the

Legislature's standing committees with jurisdiction over solid waste policy. As of November, 2012, there have been no federal law changes re-

lated to the collection and recycling of electronic devices.

STATE-FUNDED RECYCLING FINANCIAL ASSISTANCE

State law includes several state-funded programs that provide financial assistance to local governments and businesses for solid waste recycling and waste reduction purposes. These programs were funded from the segregated recycling fund prior to 2011-12. The revenue sources for this fund included a recycling surcharge and a recycling tipping fee. The recycling tipping fee and recycling program appropriations were transferred to the segregated environmental management account of the environmental fund as of 2011-12, under provisions of 2011 Act 32.

Recycling revenue sources are described at the end of this Chapter. The environmental management account also funds costs of administering these programs and of administering and enforcing many of the recycling regulations discussed in other sections of this paper. Appendix I lists recycling financial assistance program costs and administrative, regulatory and enforcement costs that were funded from the recycling fund prior to 2011-12 and are funded from the environmental management account in the 2011-13 biennium.

**Municipal and County
Recycling Grant Program**

The municipal and county recycling grant program was created in 1989 Act 335 to provide financial assistance to responsible units for eligible recycling expenses incurred from July 1, 1990, through calendar year 1999. 1997 Act 27 extended the grant program through the year 2000. 1999 Act 9 deleted the sunset of the appro-

priation. Annual appropriations for the program are shown in Table 4. Actual awards were less than appropriated amounts due to the formula used to calculate grants, and, in 2008-09 through 2010-11, because of DNR and DOA decisions to implement state agency wide deficit reduction requirements by transferring a portion of the recycling grant appropriation to the general fund.

Beginning in 2002-03, for calendar year 2003, through 2008-09, for calendar year 2009, \$1,900,000 annually was appropriated for recycling efficiency incentive grants. This is shown in Table 4. The voluntary program provided additional recycling program grants for responsible units that consolidate, enter into cooperative agreements with other responsible units, or enact other efficiencies. The sum of the basic plus efficiency incentive grant could not exceed the actual net eligible recycling costs incurred two years before the year for which the efficiency incentive grant is made. No funds were appropriated for the program in 2009-10 and 2010-11, and the program was repealed in the 2011-13 biennial budget act.

Beginning in 2011-12, for calendar year 2012, and 2012-13, for calendar year 2013, \$1,000,000 annually was appropriated for recycling consolidation grants. The voluntary program, created in 2011 Wisconsin Act 32, provides a per capita grant to responsible units that are counties, Indian Tribes, single or consolidated municipalities with a population of 25,000 or more, or municipalities that have taken certain actions to consolidate recycling programs. Funding for the recycling consolidation grant program is included in Table 4. The program is described in a later section.

Table 4: Municipal and County Recycling Grant, Efficiency Incentive Grant, and Consolidation Grant Programs: Appropriation Levels 1990-91 Through 2012-13

Calendar Year	Fiscal Year	Municipal and County Recycling Grant Appropriation	Efficiency Incentive or Recycling Consolidation Grant Appropriation	Total Appropriation Amount
July 1, 1990 to Dec 31, 1991	1990-91	\$18,500,000	\$0	\$18,500,000
1992	1991-92	18,500,000	0	18,500,000
1993	1992-93	23,800,000	0	23,800,000
1994	1993-94	29,849,200	0	29,849,200
1995	1994-95	29,200,000	0	29,200,000
1996	1995-96	29,200,000	0	29,200,000
1997	1996-97	29,200,000	0	29,200,000
1998	1997-98	24,000,000	0	24,000,000
1999	1998-99	24,000,000	0	24,000,000
2000	1999-00	24,500,000	0	24,500,000
2001	2000-01	24,500,000	0	24,500,000
2002	2001-02	24,500,000	0	24,500,000
2003	2002-03	24,500,000	1,900,000	26,400,000
2004	2003-04	24,500,000	1,900,000	26,400,000
2005	2004-05	24,500,000	1,900,000	26,400,000
2006	2005-06	24,500,000	1,900,000	26,400,000
2007	2006-07	24,500,000	1,900,000	26,400,000
2008	2007-08	31,000,000	1,900,000	32,900,000
2009	2008-09	31,000,000*	1,900,000*	32,900,000
2010	2009-10	31,098,100*	0	31,098,100
2011	2010-11	32,098,100*	0	32,098,100
2012	2011-12	19,000,000	1,000,000	20,000,000
2013	2012-13	<u>19,000,000</u>	<u>1,000,000</u>	<u>20,000,000</u>
Total		\$585,445,400	\$15,300,000	\$600,745,400

*DNR awarded less than the appropriated amount to meet part of the Department's obligation to transfer funds to the state's general funds under deficit reduction requirements of 2007-09 and 2009-11 legislation. DNR awarded \$29.3 million in 2008-09 (\$27.8 million for basic grants and \$1.5 million for recycling efficiency grants), \$29.3 million in 2009-10, and \$19.0 million in 2010-11.

Eligibility for Grant Awards

Responsible units with DNR-approved effective recycling programs are eligible for grants under the municipal and county recycling grant program. Table 5 provides a summary of the current eligibility criteria and allocation method. From 1992 through 2012, the grants were calculated using the formulas shown in Table 6.

For the 22 grant periods through 2012 (2011-

12 grants), Table 7 shows the number of responsible units of government eligible for awards, the total award amount before proration in 1992 through 1999 (eligible grant amount under the formula), the amount by which individual grants were prorated, if applicable, and the average per capita award. Table 7 includes information about both the basic grants, recycling efficiency incentive grants between 2003 and 2011, and recycling consolidation grants in 2012.

Table 5: Municipal and County Recycling Grant Program Award Current Eligibility and Allocation Method

- Eligible uses of grant funds include expenses for planning, constructing or operating one or more of the components of an effective recycling program, or to comply with the 1993 yard waste ban.
- Eligible capital expenses are limited to annual depreciation, or equipment on an hourly use basis, with the exception of the purchase of land.
- Grants are only available to responsible units with DNR-approved effective recycling programs
- Application postmark date required by October 1 of prior year
- Late applications reduced to receive: if postmark date after October 1 and by October 10, 95% of the awarded amount; if postmark date after October 10 and by October 20, 90%; if postmark date after October 20 and by October 30, 75%; and if postmark date after October 30, no grant
- Grant award paid by June 1 of calendar grant year

Table 6: Municipal and County Recycling Grant Program Allocation Formula by Year

Year	Formula
1992	66% of the difference between eligible expenses and avoided disposal costs or \$6 per capita, whichever is less.
1993-1999	66% of the difference between eligible expenses and avoided disposal costs or \$8 per capita, whichever is less.
1992-1999	Minimum grant: If the amount calculated is less than 33% of eligible expenses, the grant equals 33% of eligible expenses.
1992-1999	Minimum for certain counties: Counties that are responsible units for at least 75% of the population of the county are guaranteed a minimum grant of \$100,000, if they have eligible expenses equal to or greater than that amount.
1993-1999	Statutory per capita proration: If available funds are insufficient to fund grants under the above schedules, the first step in prorating grants is to ensure that all grantees eligible for \$6 per capita receive this amount before any grantee receives between \$6 and \$8 per capita.
1994-1999	Supplemental grant for volume-based fees: 10% of grant funds were allocated to responsible units imposing volume-based fees for residential solid waste collection. The total basic plus supplemental grant may not exceed the responsible unit's eligible expenses.
1994-1999	Supplemental grant for multifamily residences: Any funds remaining from the supplemental grant for volume-based fees above may be used for supplemental grants to responsible units that provide for collection of recyclable materials from multifamily residences and that impose volume-based fees for residential solid waste collection. The total basic plus supplemental grants may not exceed the responsible unit's eligible expenses.
1992-1999	DNR administrative rule proration formula: If funds are not available to support the \$6 per capita payment, DNR is directed to develop a process by administrative rule to prorate grant funds. Under administrative rule NR 542, the proration formula maintains the minimum \$100,000 grant for counties that are responsible units representing at least 75% of that county's population, and prorates all other grants by an equal percentage.
2000-2012	Proportional distribution: Provide a grant to responsible units equal to the same percentage of the total grant funding as the responsible unit received or would have received in 1999.

Table 7: Summary of Municipal and County Recycling Grant Amounts

Calendar Year	Number of Grantees	Net Eligible Recycling Costs (1)	Formula Award Amount	Actual Award Amount	Proration Percent	Average Per Capita Award Amount
1990/1991 final	1,860 (2)	NA	NA	\$18,500,000	NA	\$3.77
1992 final	870	\$35,588,600	\$19,268,400	18,452,200	95.4%	4.07
1993 final	941	48,520,200	26,276,600	23,741,300	89.8	4.98
1994 final Basic	1,001	56,520,200	29,495,400	26,860,700	90.6	5.44
Supplemental	<u>211</u> (3)	<u>NA</u>	<u>NA</u>	<u>2,943,900</u>	<u>NA</u>	<u>10.50</u>
Total	1,001	56,520,200	29,495,400	29,804,500	NA	6.04
1995 final Basic	1,010	61,023,800	30,832,100	26,182,500	84.1	5.21
Supplemental	<u>283</u> (3)	<u>NA</u>	<u>NA</u>	<u>2,914,100</u>	<u>NA</u>	<u>6.92</u>
Total	1,010	61,023,800	30,832,100	29,096,600	NA	5.80
1996 final Basic	1,018	66,340,000	33,194,200	26,278,600	78.1	5.18
Supplemental	<u>299</u> (3)	<u>NA</u>	<u>NA</u>	<u>2,915,900</u>	<u>NA</u>	<u>5.89</u>
Total	1,018	66,340,000	33,194,200	29,194,500	NA	5.75
1997 final Basic	1,016	68,842,900	34,123,800	26,268,900	75.9	5.13
Supplemental	<u>290</u> (3)	<u>NA</u>	<u>NA</u>	<u>2,917,900</u>	<u>NA</u>	<u>5.84</u>
Total	1,016	68,842,900	34,123,800	29,186,800	NA	5.71
1998 final Basic	1,018	71,442,200	34,963,200	21,440,200	59.6	4.15
Supplemental	<u>292</u> (3)	<u>NA</u>	<u>NA</u>	<u>2,417,900</u>	<u>NA</u>	<u>4.38</u>
Total	1,018	71,442,200	34,963,200	23,858,100	NA	4.61
1999 final Basic	1,011	73,262,600	35,221,300	21,731,500	59.8	4.18
Supplemental	<u>296</u> (3)	<u>NA</u>	<u>NA</u>	<u>2,397,900</u>	<u>NA</u>	<u>4.13</u>
Total	1,011	73,262,600	35,221,300	24,129,400	NA	4.64
2000 final Total	999	76,581,100	NA	24,312,500	NA	4.66
2001 final Total	1,011	84,124,200	NA	24,276,700	NA	4.59
2002 final Total	1,016	82,624,400	NA	24,387,500	NA	4.53
2003 final Basic	1,016	84,426,600	NA	24,404,900	NA	4.50
Efficiency Incentive	<u>110</u>	<u>NA</u>	<u>NA</u>	<u>1,900,000</u>	<u>NA</u>	<u>0.71</u>
Total	1,016	84,426,600	NA	26,304,900	NA	4.84
2004 final Basic	1,013	85,661,000	NA	24,383,300	NA	4.48
Efficiency Incentive	<u>77</u>	<u>NA</u>	<u>NA</u>	<u>1,900,000</u>	<u>NA</u>	<u>0.74</u>
Total	1,013	85,661,000	NA	26,283,300	NA	4.83
2005 final Basic	1,010	90,136,100	NA	24,409,700	NA	4.43
Efficiency Incentive	<u>148</u>	<u>NA</u>	<u>NA</u>	<u>1,898,200</u>	<u>NA</u>	<u>0.66</u>
Total	1,010	90,136,100	NA	26,307,900	NA	4.78
2006 final Basic	1,012	93,952,900	NA	24,435,000	NA	4.40
Efficiency Incentive	<u>120</u>	<u>NA</u>	<u>NA</u>	<u>1,900,000</u>	<u>NA</u>	<u>0.71</u>
Total	1,012	93,952,900	NA	26,335,000	NA	4.74

Table 7: Summary of Municipal and County Recycling Grant Amounts (continued)

Calendar Year	Number of Grantees	Net Eligible Recycling Costs (1)	Formula Award Amount	Actual Award Amount	Proration Percent	Average Per Capita Award Amount
2007 final Basic	1,008	\$98,387,100	NA	\$24,414,600	NA	\$4.37
Efficiency Incentive	<u>124</u>	<u>NA</u>	NA	<u>1,900,000</u>	NA	<u>0.70</u>
Total	1,018	98,387,100	NA	26,314,600	NA	4.71
2008 final Basic	1,018	99,118,900	NA	30,787,900	NA	5.47
Efficiency Incentive	<u>227</u>	<u>NA</u>	NA	<u>1,900,000</u>	NA	<u>0.65</u>
Total	1,018	99,118,900	NA	32,687,900	NA	5.81
2009 final Basic	1,022	107,997,300	NA	27,829,100 (4)	NA	4.92
Efficiency Incentive	<u>161</u>	<u>NA</u>	NA	<u>1,500,000</u> (4)	NA	<u>0.56</u>
Total	1,022	107,997,300	NA	29,329,100	NA	5.18
2010 final Basic	1,025	104,028,700	NA	29,294,200 (4)	NA	5.16
Efficiency Incentive	<u>0</u>	<u>NA</u>	NA	<u>0</u>	NA	<u>0.00</u>
Total	1,025	104,028,700	NA	29,294,200	NA	5.16
2011 final Basic	1,020	103,514,700	NA	18,954,000 (4)	NA	3.34
Efficiency Incentive	<u>0</u>	<u>NA</u>	NA	<u>0</u>	NA	<u>0.00</u>
Total	1,020	103,514,700	NA	18,954,000	NA	3.34
2012 award Basic	1,026	109,517,000	NA	19,000,000	NA	3.34
Consolidation	<u>186</u>	<u>NA</u>	NA	<u>1,000,000</u>	NA	<u>0.27</u>
Total	1,026	109,517,000	NA	20,000,000	NA	3.52

NA: Not applicable

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

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

(3) All grantees that received a supplemental grant in 1994 through 1999, an efficiency incentive grant in 2003 through 2009, or a consolidation grant in 2012, first received a basic grant.

(4) DNR awarded less than the appropriated amount to meet part of the Department's obligation to transfer funds to the state's general funds under deficit reduction requirements of 2007-09 and 2009-11 legislation.

Awards in 1990 Through 1999

In 1990 (fiscal year 1990-91), the first year grants were awarded under the municipal and county grant program, grants for the period from July 1, 1990, through December 31, 1991, were allocated through a special expedited process.

Grants for 1991 through 1999 were allocated based on a complex formula based on eligible expenses, "avoided disposal costs," and other factors. Avoided disposal costs are those costs that are not incurred by the responsible unit because material is recycled rather than disposed of by

landfilling or incineration (such as landfill tipping fees).

The basic grant award in 1999, the last year the formula was used, was determined by first calculating 66% of the difference between eligible expenses and avoided disposal costs or \$8 per capita, whichever was less. The second step was to compare this amount with 33% of eligible expenses. The responsible unit received the greater of these two amounts. Third, counties that are responsible units for at least 75% of the county's population were guaranteed a minimum annual

grant of \$100,000 if they had eligible expenses equal to or greater than that amount. The final step was to prorate all grant awards by an equal percentage (after providing the minimum \$100,000 grants to certain counties) to meet available funding.

Ten percent of funds available for 1994 through 1999 grants were allocated for supplemental grants for volume-based fees. The supplemental grant was calculated by dividing the available funds by the population subject to volume-based fees in the responsible units that imposed volume-based fees for residential solid waste collection. The population of the responsible unit that was subject to volume-based fees could be smaller than the population of the responsible unit. The total of basic plus supplemental grant could not exceed the responsible unit's eligible recycling expenses.

Awards in 2000 and Subsequent Years

1999 Act 9 (the 1999-01 biennial budget) changed the grant formula in 1999-00 for 2000 and subsequent grant years. The Legislature enacted a change to a per capita based grant formula. However, as a result of the Governor's partial veto, the formula was changed to a proportional distribution based on 1999 awards.

In order to be eligible for a grant in 2000, a responsible unit had to have received financial assistance in 1999 and DNR had to have determined that the responsible unit has an effective recycling program. In 2000, 11 responsible units applied for and did not receive grants because they did not receive a grant in 1999.

Beginning in the 2001 grant year and in subsequent years, the requirement that a responsible unit have received a grant in 1999 does not apply. Instead, responsible units receive a grant equal to the same percentage of the total grant funding as

the responsible unit received, or would have received, in 1999. For example, if a responsible unit received 1% of the total grant funds in 1999, the responsible unit receives 1% of the total grant funds in 2012. This proportional distribution remains in effect.

Awards as a Percent of Recycling Costs

Table 8 shows the total state grant award as a percent of the net eligible recycling costs. In 1992, the first year of the grant formula, grant awards averaged 52% of net eligible recycling costs. The award as a percent of costs decreased in subsequent years to 18.3% in 2011.

Table 8: Municipal and County Recycling Grants: Eligible Cost, Grant Award and Award as Percent of Costs (\$ in Millions)

Calendar Year	Net Eligible Recycling Costs	Award Amount**	Grant Award as % of Net Eligible Costs
1992	\$35.6	\$18.5	52.0%
1993	48.5	23.7	48.9
1994	56.5	29.8	52.7
1995	61.0	29.1	47.7
1996	66.3	29.2	44.0
1997	68.8	29.2	42.4
1998	71.4	23.9	33.5
1999	73.3	24.1	32.9
2000	76.6	24.3	31.7
2001	84.1	24.3	28.9
2002	82.6	24.3	29.4
2003	84.4	26.3	31.2
2004	85.7	26.4	30.8
2005	90.1	26.3	29.2
2006	94.0	26.3	28.0
2007	98.4	26.3	26.7
2008	99.1	32.7	33.0
2009	108.0	29.3	27.2
2010	104.0	29.3	28.3
2011	103.5	19.0	18.3
2012*	109.5	20.0	18.3

*Shows estimated net eligible recycling costs in 2012, and final net eligible recycling costs in prior years.

**In the 2003 through 2011 grant years, includes basic grant plus efficiency incentive grant. As of 2012, includes basic grant plus consolidated grant.

Table 9: 2012 Municipal and County Recycling Grants to Responsible Units (RUs) by Governmental Unit Type

Type	Number of RUs	Population	Net Eligible Recycling Costs	Combined Basic Plus Consolidated Grant Award	Average Per Capita Grant Award	Average Award as a % of Net Eligible Recycling Costs
Town	598	935,491	\$16,237,392	\$2,288,272	\$2.45	14.1%
Village	243	689,809	18,331,393	2,124,710	3.08	11.6
City	130	2,582,475	55,067,777	9,640,208	3.73	17.5
County	34	1,415,318	18,475,671	5,666,680	4.00	30.7
Indian Tribe	10	21,148	852,855	159,554	7.54	18.7
Other	<u>11</u>	<u>42,333</u>	<u>551,926</u>	<u>120,552</u>	2.85	21.8
Total	1,026	5,686,574	\$109,517,015	\$19,999,976	\$3.52	18.3%

In 2012, the most recent grant award cycle, DNR awarded \$19,000,000 for basic municipal and county recycling grants and \$1,000,000 for recycling consolidation grants. While the 2012 combined basic plus consolidation grant awards averaged 18.3% of the estimated \$109.5 million in net eligible recycling costs, the award as a percent of net eligible recycling costs varied considerably for individual responsible units.

The 2012 basic grant amount was calculated as the same percentage of the 2012 award amount of \$19.0 million as the responsible unit received or would have received of the 1999 appropriation of \$24,000,000. The actual grant amount for each responsible unit was capped by the projected net eligible recycling costs for the responsible unit, and was reduced by any late application penalty. The recycling consolidation grant amount was calculated by adding the population of all eligible responsible units, and dividing the \$1,000,000 recycling consolidation grant appropriation by that population total, to reach a per capita consolidation grant amount of \$0.265.

For the 2012 grant year, Tables 9 through 14 show the distribution of grant awards in several different ways and include the population represented by the responsible units receiving those awards, the net eligible recycling costs, the total grant award, the average per capita grant award

and the grant award as a percent of net eligible recycling costs.

Table 9 shows the distribution of 2012 basic plus consolidated grant awards by type of local government unit. While 58.3% of the responsible units were towns, towns represented 16.5% of the population of responsible units that received grant awards and 11.4% of the total grant award dollars. Responsible units that are cities represented 45.4% of the population and 48.2% of the total grant award dollars. While the statewide average award as a percent of the net eligible recycling costs was 18.3% and the average award per capita was \$3.52, these measurements varied by responsible unit.

Most of the responsible unit grant recipients had populations under 2,500. As shown in Table 10, the 734 responsible units with populations under 2,500 represented 71.5% of the responsible units that received grants, 13.1% of the population served through the grants and 11.3% of the total grant award dollars in 2012. In comparison, six responsible units with populations of 100,000 or greater represented 0.6% of the responsible units, but included 26.5% of the population that received grants and 27.8% of the total grant award dollars in 2012.

Table 11 lists the number and total dollar amount of 2012 recycling grant awards received

Table 10: 2012 Municipal and County Recycling Grants to Responsible Units (RUs) by Population Size

Population	Number of RUs	Population	Net Eligible Recycling Costs	Combined Basic Plus Consolidation Grant Award	Average Per Capita Grant Award	Average Award as a % of Net Eligible Recycling Costs
Less than 2,500	734	747,470	\$16,866,404	\$2,267,901	\$3.03	13.4%
2,500 - 4,999	119	414,539	8,350,241	1,282,334	3.09	15.4
5,000 - 9,999	70	497,229	10,721,850	1,661,464	3.34	15.5
10,000 - 24,999	61	938,972	20,237,702	3,402,943	3.62	16.8
25,000 - 49,999	27	967,231	17,110,612	3,574,135	3.70	20.9
50,000 - 99,999	9	613,671	8,699,571	2,242,111	3.65	25.8
100,000 and over	<u>6</u>	<u>1,507,462</u>	<u>27,530,635</u>	<u>5,569,088</u>	3.69	20.2
Total	1,026	5,686,574	\$109,517,015	\$19,999,976	\$3.52	18.3%

Table 11: 2012 Municipal and County Recycling Grants to Responsible Units (RUs) by Amount of Award

Award Amount	Number of RUs	Population	Net Eligible Recycling Costs	Combined Basic Plus Consolidated Grant Award	Average Per Capita Grant Award	Average Award as a % of Net Eligible Recycling Costs
\$1 - \$4,999	626	599,873	\$10,373,877	\$1,245,640	\$2.08	12.0%
5,000 - 9,999	168	409,009	8,366,286	1,211,901	2.99	14.6
10,000 - 24,999	114	634,119	15,851,528	1,801,891	2.84	11.4
25,000 - 49,999	36	374,210	8,434,400	1,249,433	3.34	14.8
50,000 - 99,999	47	809,956	15,951,395	3,548,734	4.38	22.2
100,000 - 499,999	31	1,557,187	27,406,136	6,285,053	4.04	22.9
500,000 and over	<u>4</u>	<u>1,302,220</u>	<u>23,133,393</u>	<u>4,647,324</u>	3.57	20.1
Total	1,026	5,686,574	\$109,517,015	\$19,999,976	\$3.52	18.3%

by the size of the award and includes the population represented within each category. Table 11 shows that 626 grant awards, totaling \$1,245,640, were less than \$5,000 each, and were made to responsible units representing a total population of 599,873. These grants represent approximately 10.5% of the population of grantees and 6.2% of the awarded grants. Four grant awards were each \$500,000 or larger, totaling \$4,647,324, and were made to approximately 22.9% of the population served, with approximately 23.2% of the grant dollars awarded in 2012.

Table 12 shows that the distribution of grants by per capita category varied among responsible units. Approximately 31.4% of the grantees, with 12.9% of the total grantee population, received

awards that averaged less than \$2 per capita, with awards averaging 10.0% of total net eligible recycling costs. In comparison, 20 responsible units, with 1.1% of the total grantee population, received awards that averaged \$8 and over per capita, with these awards averaging 28.2% of the net eligible recycling costs of the 20 responsible units.

Table 13 shows the grant award as a percent of the net eligible recycling costs. The award as a percent of net eligible recycling costs varied widely, ranging from 1% to 100% of net eligible recycling costs. In the group of 28 responsible units that had awards that averaged 60% or more of net eligible costs, the per capita award ranged from \$0.35 to \$19. The variation in the award as

Table 12: 2012 Municipal and County Recycling Grants to Responsible Units (RUs) by Award Per Capita

Award Per Capita	Number of RUs	Population	Net Eligible Recycling Costs	Combined Basic Plus Consolidated Grant Award	Average Per Capita Grant Award	Average Award as a % of Net Eligible Recycling Costs
\$0.01 - \$0.99	94	160,460	\$1,350,060	\$107,822	\$0.67	8.0
1.00 - 1.99	228	572,990	8,470,047	872,595	1.52	10.3
2.00 - 2.99	230	1,029,970	15,970,918	2,685,103	2.61	16.8
3.00 - 3.99	247	2,635,596	51,667,254	9,508,540	3.61	18.4
4.00 - 5.99	148	1,024,840	23,678,797	4,700,702	4.59	19.9
6.00 - 7.99	59	200,681	5,744,549	1,380,951	6.88	24.0
8.00 - 9.99	7	38,480	1,270,798	340,336	8.84	26.8
10.00 and over	<u>13</u>	<u>23,557</u>	<u>1,364,592</u>	<u>403,927</u>	17.15	29.6
Total	1,026	5,686,574	\$109,517,015	\$19,999,976	\$3.52	18.3%

Table 13: 2012 Municipal and County Recycling Grants to Responsible Units (RUs) by Award as a Percent of Net Eligible Recycling Costs

Award as % of Net Eligible Recycling Costs	Number of RUs	Population	Net Eligible Recycling Costs	Basic Grant Award	Average Per Capita Grant Award	Average Award as a % of Net Eligible Recycling Costs
0.1% - 9.99%	213	544,274	\$18,146,293	\$1,165,253	\$2.14	6.4%
10 - 19.99	445	2,375,880	56,278,641	8,057,137	3.39	14.3
20 - 29.99	185	1,476,481	23,072,436	5,478,841	3.71	23.7
30 - 39.99	98	507,596	5,644,646	1,864,378	3.67	33.0
40 - 49.99	31	325,768	3,199,315	1,461,026	4.48	45.7
50 - 59.99	26	344,246	2,246,474	1,182,638	3.44	52.6
60 - 100	<u>28</u>	<u>112,329</u>	<u>929,209</u>	<u>790,704</u>	7.04	85.1
Total	1,026	5,686,574	\$109,517,015	\$19,999,976	\$3.52	18.3%

a percent of net eligible cost is due to factors such as what activities responsible units choose to include in their recycling program, what activities responsible units included in 1999 when the current formula was created (since 1999, responsible units have received the same percentage of the total grant as they received in 1999), the costs of various curbside collection or drop-off collection program components, and the costs of transportation of collection activities in densely or sparsely populated responsible units.

Table 14 lists the 65 responsible units with grant awards of \$70,000 or greater for the 2012 grant year. These responsible units include 29 cities, 31 counties, and four villages. Grants to the 65 responsible units include 59.9% of the to-

tal grantee population and 67.4% of the total grant award dollars paid.

The grant award for the 65 responsible units as a percent of net eligible recycling costs varied from 10% to 100%, depending on the 1999 grant amount and estimated net eligible costs.

Administration of Grants

The grant program is administered by DNR in the Bureau of Community Financial Assistance in the Customer and Employee Services (CAES) Division central office. In 2012-13, the central office is authorized 2.0 segregated (SEG) environmental management account positions to administer the municipal and county recycling grant

Table 14: 2012 Municipal and County Recycling Grants to Responsible Units (RUs) - Largest 65 Grant Awards Includes All Awards of \$70,000 or Greater

Municipality/County	Population	Net Eligible Recycling Costs	Combined Basic Plus Consolidated Grant Award	Per Capita Grant Award	Award as a % of Net Eligible Recycling Costs
Milwaukee, City	595,525	\$9,556,588	\$2,324,896	\$3.90	24.3%
Waukesha, County	277,229	5,505,803	948,496	3.42	17.2
Madison, City	233,890	6,974,711	803,654	3.44	11.5
Outagamie, County	195,576	1,096,291	570,278	2.92	52.0
Eau Claire, County	100,992	1,081,712	486,791	4.82	45.0
Green Bay, City	104,250	3,315,530	434,974	4.17	13.1
Kenosha, City	99,450	1,480,249	389,223	3.91	26.3
Racine, City	78,700	1,751,440	316,392	4.02	18.1
West Allis, City	60,365	1,288,681	254,524	4.22	19.8
Oshkosh, City	66,080	790,582	238,066	3.60	30.1
Janesville, City	63,515	754,748	226,881	3.57	30.1
Portage, County	62,138	1,102,853	220,845	3.55	20.0
Chippewa, County	57,697	546,592	218,198	3.78	39.9
Manitowoc, City	33,721	472,700	216,356	6.42	45.8
Oconto, County	37,723	410,904	207,620	5.50	50.5
Neenah, City	25,612	1,177,695	202,620	7.91	17.2
Pierce, County	41,971	598,076	201,521	4.80	33.7
Saint Croix, County	74,531	423,059	196,522	2.64	46.5
Sheboygan, City	49,230	1,115,190	194,106	3.94	17.4
Wauwatosa, City	46,380	1,407,300	186,307	4.02	13.2
La Crosse, City	51,195	561,367	181,460	3.54	32.3
Waupaca, County	41,865	693,623	173,448	4.14	25.0
Polk, County	44,151	282,790	159,674	3.62	56.5
Dunn, County	41,214	749,812	157,210	3.81	21.0
Fond du Lac, City	43,075	744,315	157,204	3.65	21.1
Wausau, City	39,142	654,250	147,904	3.78	22.6
Monroe, County	43,709	666,494	144,589	3.31	21.7
Vernon, County	30,182	848,440	142,395	4.72	16.8
Columbia, County	41,606	890,796	138,663	3.33	15.6
Beloit, City	36,945	921,290	138,197	3.74	15.0
Greenfield, City	36,672	617,021	124,679	3.40	20.2
Vilas, County	21,444	460,525	115,552	5.39	25.1
West Bend, City	31,227	668,410	108,740	3.48	16.3
Fitchburg, City	25,192	430,976	103,331	4.10	24.0
Superior, City	27,213	498,716	101,063	3.71	20.3
Watertown, City	23,936	931,940	99,542	4.16	10.7
Allouez, Village	13,966	523,428	98,914	7.08	18.9
Richland, County	17,252	201,107	98,810	5.73	49.1
Buffalo, County	10,698	199,271	98,772	9.23	49.6
De Pere, City	23,925	475,494	97,855	4.09	20.6
Adams, County	18,914	188,933	97,006	5.13	51.3
Oak Creek, City	34,495	749,305	94,460	2.74	12.6
Taylor, County	16,228	246,730	88,726	5.47	36.0
Barron, County	34,519	285,152	88,345	2.56	31.0
Iron, County	5,828	91,663	88,271	15.15	96.3

Table 14: 2012 Municipal and County Recycling Grants to Responsible Units (RUs) - Largest 65 Grant Awards Includes All Awards of \$70,000 or Greater (continued)

Municipality/County	Population	Net Eligible Recycling Costs	Combined Basic Plus Consolidated Grant Award	Per Capita Grant Award	Award as a % of Net Eligible Recycling Costs
Burnett, County	15,136	\$102,149	\$87,558	\$5.78	85.7%
Waushara, County	23,724	213,031	87,156	3.67	40.9
Door, County	27,765	383,050	86,553	3.12	22.6
Jackson, County	20,064	173,783	84,804	4.23	48.8
Washburn, County	15,900	107,574	83,407	5.25	77.5
Two Rivers, City	11,688	368,904	83,063	7.11	22.5
Forest, County	9,180	82,386	81,624	8.89	99.1
South Milwaukee, City	21,137	545,235	81,543	3.86	15.0
Rusk, County	13,243	81,022	81,022	6.12	100.0
Menominee, County	4,202	125,100	80,304	19.11	64.2
Menomonee Falls, Village	35,675	330,100	80,065	2.24	24.3
Marquette, County	14,319	84,889	79,038	5.52	93.1
Florence, County	4,337	78,997	78,997	18.21	100.0
Weston, Village	15,687	254,546	78,668	5.01	30.9
Ashwaubenon, Village	16,954	480,742	76,328	4.50	15.9
Monroe, City	10,820	488,355	74,290	6.87	15.2
Muskego, City	24,168	498,241	73,126	3.03	14.7
Wisconsin Rapids, City	18,367	395,999	72,319	3.94	18.3
Oneida, County	26,799	210,365	71,137	2.65	33.8
Menasha, City	<u>17,381</u>	<u>632,453</u>	<u>70,386</u>	4.05	11.1
Largest 65 Grants, \$70,000 or greater	3,405,714	\$60,069,472	\$13,474,466	\$3.96	22.4%
Total Grants Less than \$70,000	2,280,860	\$49,447,543	\$6,525,510	\$2.86	13.2%
Statewide Total, 1,026 Grants	5,686,574	\$109,517,015	\$19,999,976	\$3.52	18.3%
65 Largest Grants, % of Total	59.9%	54.8%	67.4%		

program, and the recycling consolidation grant program.

Audit of Grants and Responsible Units

Prior to 2001-02, the statutes directed DNR to annually audit at least 5% of the recipients of the grants to ensure that funded programs and activities meet established requirements. DNR audited 108 grants totaling \$24.5 million received by 44 recipients of 1992 through 1999 grants. DNR audits resulted in some adjustments to eligible ex-

pense totals, but audited responsible units generally received their entire grant. No responsible units were disqualified from grant eligibility as a result of an audit.

Under 2001 Act 16, the auditing requirement was changed. DNR is required to annually review the effective recycling programs of at least 5% of the responsible unit grant recipients to ensure that programs and activities funded by responsible unit grants meet the requirements of the program. Based on 1,026 responsible unit grant recipients,

DNR would need to review at least 51 programs annually to comply with the annual review requirement. In each of 2001-02 through 2009-10, DNR exceeded that requirement.

DNR reviewed 110 responsible unit programs in 2008-09, 90 in 2009-10, 87 in 2010-11, and 104 in 2011-12. This represented 9% to 11% of responsible unit programs. DNR selected programs for review that had prior problems with the program, had provided incomplete annual report information, did not have a compliance assurance plan or an up to date compliance assurance plan, had received complaints from residents, had a lower annual recycling rate than the per capita goals, or had an exceptionally good program that could provide lessons about how to operate a successful program. DNR also included group evaluations in this program in order to reach larger numbers of responsible units than would have otherwise been done, and to present new program information (especially about the electronics recycling program) to responsible units.

DNR regional staff made site visits to review programs and worked with responsible units to correct any observed program deficiencies. DNR has not placed any responsible units on probation as a result of the reviews. However, staff followed up on non-compliance issues with several responsible units, and all of the issues were addressed by responsible units to the satisfaction of DNR staff within the specified timeframes.

Recycling Consolidation Grant Program

In 2011 Act 32, a recycling consolidation grant program was created. The program is appropriated \$1,000,000 in each of 2011-12 and 2012-13 from the segregated environmental management account.

DNR is required to distribute the funds on a per capita basis to responsible units that operate effective recycling programs and meet one of the following criteria:

1. The responsible unit is a county.
2. The responsible unit is a federally recognized Indian tribe or band.
3. The responsible unit has a population of 25,000 or more and consists of one or more municipalities.
4. The responsible unit is not eligible under (1) through (3) above, but one of the following applies by October 1 in the year before the grant year: (a) the responsible unit consists of what had previously been at least two responsible units; or (b) the responsible unit enters into a cooperative agreement with another responsible unit for the joint provision of at least one of the following elements of an effective recycling program: (1) performing comprehensive program planning; (2) collecting and transporting recyclable materials; (3) sorting recyclable materials at a materials recovery facility; (4) developing and distributing education materials relating to waste reduction, reuse, and recycling; (5) carrying out a program of technical assistance to businesses and owners and occupants of multifamily dwellings to increase the availability and convenience of recycling; or (6) any other program element approved by DNR.

In 2011-12, DNR awarded the first recycling consolidation grants totaling \$1,000,000 to 186 responsible units. The population in these responsible units totaled 3,770,627. The per capita grant award amount was \$0.27. The sum of the recycling consolidation grant and basic grant for specific responsible units could not exceed the amount of eligible recycling costs. Table 15 summarizes the recycling consolidation grants awarded in 2011-12 by type of eligibility.

Table 15: Summary of 2012 Recycling Consolidation Grants

Efficiency Incentive Type	Number of RUs	Population	Award Amount
County	34	1,415,318	\$ 375,354
Indian Tribe	10	21,148	5,609
Population > 25,000	25	1,908,697	506,201
Cooperative agreement	117	425,464	112,836
Added new member	<u>0</u>	<u>0</u>	<u>0</u>
Total	186	3,770,627	\$1,000,000

Former Programs

A recycling efficiency incentive grant program was created under 2001 Act 16. The program was appropriated \$1,900,000 annually from the recycling fund from 2002-03 through 2008-09. The program was not appropriated funding for 2009-10 or 2010-11, but the statutory authorization for the program was retained. In 2011 Act 32, the program was repealed.

DNR administered two waste reduction and recycling programs between 1991 and 2009, funded from the recycling fund, which provided assistance for projects that reduce the amount of waste generated or disposed of. The programs were not appropriated funding in 2009-10 or 2010-11, but the statutory authorization for the program was retained. In 2011 Act 32, the programs were repealed.

The waste reduction and recycling demonstration grant program provided cost-share grants to municipalities, counties, schools, other public entities, businesses and nonprofit organizations for projects which implement innovative waste reduction and recycling activities. DNR made a cumulative total of 192 grants for \$13.3 million under the program. DNR also entered into six contracts totaling \$808,100 with two nonprofit organizations for services to assist businesses to reduce the amount of solid waste generated or to

reuse or recycle solid waste.

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

The Recycling Market Development Board (RMDB) existed from 1993-94 through 2003-04. The RMDB awarded a cumulative total of \$26.6 million in financial assistance to governmental entities or business entities to assist waste generators in the marketing of recovered materials or to develop markets for recovered materials. In 2003 Act 33, the RMDB was repealed.

[Additional information about former recycling assistance programs can be found in the Legislative Fiscal Bureau's January, 2011, Informational Paper 71 entitled "Solid Waste Recycling and Waste Reduction."]

Former Segregated Recycling Fund

The majority of state solid waste recycling and waste reduction programs were funded from the segregated recycling fund, a separate, nonlapsable trust fund, prior to 2011-12. The re-

cycling fund was created in 1989, and was re-named the recycling and renewable energy fund in 2007 Act 20. This fund received revenues from a recycling income tax surcharge established in 1991 and a recycling solid waste tipping fee effective January 1, 2000.

In 2011 Act 32, the recycling fund was re-named to be the economic development fund. The former funding and functions of the recycling fund were split between the new economic development fund and the environmental management account of the environmental fund. The \$7 state solid waste recycling tipping fee and most recycling related programs were transferred to the environmental management account. The recycling surcharge was renamed the economic development surcharge, is deposited in the economic development fund as of 2011-12, and is appropriated for activities of the Wisconsin Economic Development Corporation. Total cumulative recycling surcharge revenue collections totaled \$584.1 million between 1991-92 and 2010-11. [See the Legislative Fiscal Bureau Informational Paper entitled "Wisconsin Economic Development Corporation" for more information.]

Appendix II shows the cumulative recycling fund revenues and expenditures from 1990-91 through 2010-11. Of the \$881 million in recycling fund revenues during the 21 years, the recycling surcharge provided \$584.1 million, or 66.3% of the total revenue, and recycling tipping fees provided \$236.8 million, or 26.9%. Recycling fund expenditures during 1990-91 through 2010-11 totaled \$875.6 million. The largest cumulative expenditure category is the DNR municipal and county recycling grant program with \$527.6 million, or 60.3% of total expenditures. The second largest cumulative expenditure is transfers to the general fund and conservation fund in several years, with a total of \$182.7 million transferred, or 20.9% of total expenditures.

Recycling Tipping Fee

In 2011 Act 32, deposit of the \$7 per ton recycling tipping fee was transferred to the environmental management account of the environmental fund, effective in 2011-12. During the 2011-13 biennium, the recycling tipping fee supports recycling programs and other programs funded from the environmental management account.

The recycling tipping fee is assessed on all solid waste except high-volume industrial waste disposed of in landfills in Wisconsin, with a few exceptions. The recycling tipping fee was created in 1999 Act 9, at a rate of 30¢ per ton, effective for waste disposed of in Wisconsin landfills on or after January 1, 2000. The fee rate has increased three times since, and has been \$7 per ton since October 1, 2009. The fee is assessed quarterly. Table 16 shows the changes in the recycling tipping fee rate. State recycling tipping fees paid by municipalities are exempt from the budget test under the expenditure restraint program.

Table 16: Recycling Tipping Fee Rate

Time Period	Fee Rate
January 1, 2000 to December 31, 2001	\$0.30
January 1, 2002 to October 31, 2007	3.00
November 1, 2007 to September 30, 2009	4.00
October 1, 2009 and thereafter	7.00

Other state solid waste tipping fees are deposited in the environmental fund and program revenue accounts. All of the state tipping fee rates are shown in Table 17. Further information about landfill tipping fees deposited in the environmental fund can be found in the Legislative Fiscal Bureau informational papers titled "Contaminated Land and Brownfields Cleanup Programs" and "Nonpoint Source Water Pollution Abatement and Soil Conservation Programs."

Table 17: State Solid Waste Tipping Fee Rates Per Ton Effective October 1, 2009 (current as of January 1, 2013)

Fee	Fund	Fee - Waste Other Than High-Volume Industrial and PCB Contaminated Sediment*	Fee - PCB Contaminated Sediment (Fox River Cleanup)	Fee - High-Volume Industrial Waste*
Recycling	Environmental	\$7.00	\$0.00	\$0.00
Environmental Management	Environmental	2.64	0.99	0.34
Nonpoint	Environmental	3.20	3.20	0.00
Landfill License Surcharge	Program revenue - DNR solid waste administration	0.15	0.15	0.15
Waste Facility Siting Board	Program revenue - DOA Solid Waste Facility Siting Board	<u>0.007</u>	<u>0.007</u>	<u>0.007</u>
Total		\$12.997	\$4.347	\$0.497

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

Solid waste is excluded from the recycling tipping fee if it is disposed of by a nonprofit organization that provides services and programs for people with disabilities or that primarily serves low-income persons and that derives a portion of its income from the operation of recycling and reuse programs, if that waste is not commingled with waste that is subject to the tipping fee. In calendar years 2009 through 2011, (the first years DNR tracked this exemption separately), a total of 24,200 tons were exempt from the recycling tipping fee under the provision.

2003 Wisconsin Act 33 exempted from the recycling tipping fee all sludges, river sediments, or dredged materials that contain PCBs (polychlorinated biphenyls) that are removed in connection with the remediation of contaminated sediments in a navigable water of the state, if the total quantity of the removed materials, either in an individual phase or in combination with other planned phases of remediation, will exceed 200,000 cubic yards. This exemption applies mainly to sediments dredged from the Fox River cleanup project, and potentially other large harbor contaminated sediment cleanups in the future. In calendar years 2004 through 2011, a total of 1,317,300 tons of sediment from the Fox River cleanup project were disposed of in a Wisconsin

landfill, and were exempt from the recycling tipping fee under the provision. This included 385,300 tons in 2010 and 124,700 tons in 2011. It is expected that approximately 265,000 tons may be landfilled under the provision in 2012.

2005 Wisconsin Act 25 exempted from the recycling tipping fee, waste material that is removed from recycled materials intended for use as recycled fiber by a person that makes paper, pulp, or paperboard from wastepaper, if the waste material cannot be used to make paper, pulp, or paperboard. In calendar years 2005 through 2011, a total of 229,500 tons were exempt from the recycling tipping fee under the provision, including 54,400 tons in 2010 and 41,700 tons in 2011.

2011 Wisconsin Act 32 exempted from all state solid waste tipping fees, waste generated from a natural disaster (a severe natural or human-caused flood, or a severe tornado, heavy rain, or storm) if all of the following apply: (a) the natural disaster resulted in a federal or state declaration of disaster; (b) the solid waste materials generated in the natural disaster were disposed of in a landfill within 60 days after the occurrence of the natural disaster; (c) the solid waste materials were generated within a municipality that was included in the federal or state

disaster declaration; and (d) the solid waste materials were removed as part of the disaster recovery effort and were segregated from other solid wastes when delivered to the landfill. No landfills reported waste exempt from tipping fees under the provision in 2011.

Table 18 shows annual recycling tipping fee collections from 1999-00 through 2011-12. Total collections during this time period were \$273.1 million. Recycling tipping fee revenues are estimated at \$36.4 million in 2012-13 under the \$7 fee. Recycling tipping fee revenues increased by approximately 3% in 2009-10, despite a 75% tipping fee increase effecting revenues for the final six months of the fiscal year. This is primarily because economic conditions resulted in land-filled amounts subject to the fee declining from over 6.8 million tons in 2008-09 to approximately 5.4 million tons in 2009-10. Revenue collected in 2010-11 reflects the first full year of implementation of the increase in the recycling tipping fee from \$4 to \$7 per ton.

Table 18: Recycling Tipping Fee Collections (\$ in Millions)

Fiscal Year	Amount
1999-00	\$0.4
2000-01	2.0
2001-02	6.0
2002-03	22.4
2003-04	19.9
2004-05	23.7
2005-06	23.2
2006-07	22.9
2007-08	24.1
2008-09	28.0
2009-10	28.9
2010-11	35.3
2011-12	<u>36.3</u>
Total	\$273.1

Council on Recycling

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

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

During 2011 and 2012, the Council worked on the following activities: (a) maintained contact with state agencies involved in recycling, including the DNR, Department of Safety and Profes-

sional Services (the former Department of Commerce), UW – Extension, and Department of Corrections; (b) discussed recycling issues related to the 2011-13 biennial budget; (c) supported proposed legislation that would have restored the portion of funding for recycling program grants for local governments that was deleted in the 2011-13 biennial budget; (d) supported pharmaceutical collection and disposal programs in states in the Great Lakes region; (e) provided a forum for the discussion of issues affecting recycling programs in the state; (f) supported the use of recycling revenues for recycling-related activities; (g) conducted a survey of people involved in recycling; (h) supported proposed federal legislation related to electronics recycling (it did not pass); and (i) hosted speakers and organized tours of recycling and solid waste facilities.

DNR Recycling Staff

In 2012-13, DNR is authorized 21.4 positions from the segregated environmental management account for work on various recycling activities. This includes the following.

1. DNR performs the policy development, administrative, planning, evaluation, markets directory and data management functions through the work of 13.5 positions in the Bureau of Waste and Materials Management in the Division of Air, Waste and Remediation and Redevelopment in the central office and by staff in five regional offices. Regional staff provide technical assistance and outreach to local governments on recycling, track and enforce compliance with condi-

tions of approved effective recycling programs, and process applications for the municipal and county grant program. Of the 13.5 positions, 2.0 positions staff the electronics recycling program.

2. The Bureau of Cooperative Environmental Assistance in the Office of Business Support and Sustainability is authorized 1.0 business sector specialist to work with communities and businesses to manage improved performance in business recycling.

3. The informational and educational functions are performed with 2.0 positions in the Bureau of Waste and Materials Management.

4. Administration of the recycling grant programs is performed by 2.0 positions in the Bureau of Community Financial Assistance in the Division of Customer and Employee Services.

5. Recycling enforcement activities are performed by 2.4 positions in the Division of Enforcement.

6. DNR also has accounting, purchasing and other financial management recycling-related responsibilities that are performed by 0.5 position.

DNR Education and Technical Assistance Responsibilities

Duties

DNR is responsible for providing technical assistance and comprehensive public information. DNR is required to provide technical assistance to individuals, groups, businesses, state agencies, counties and municipalities in all aspects of recycling, with an emphasis on docu-

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

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

Activities

DNR accomplishes its technical assistance, informational and educational responsibilities by establishing project work groups from various bureaus in DNR. In 2011-13, DNR worked with local and state elected officials and employees, students ranging in age from kindergarten to graduate students, teachers, solid waste brokers, dealers, processors and haulers, businesses that use or make products from recycled materials,

other businesses, and the general public. DNR focused on several activities that are listed below.

1. Prepared, updated, and distributed fact sheets, newsletters, updates, and publications related to general recycling issues and specific types of recycling.

2. Continued to improve DNR Internet web sites to provide information about recycling programs, legislation, and grant opportunities.

3. Provided communication and education tools and resources to responsible units for distribution to their residents, businesses, and institutions.

4. Maintained, promoted, and expanded an internet-based green and healthy school program in partnership with the Wisconsin Department of Public Instruction and the Wisconsin Center for Environmental Education at the University of Wisconsin - Stevens Point.

5. Conducted over 20 regional workshops related to recycling and green and healthy schools for educators of preschool through grade 12 students.

6. Continued education on composting, conducted a high school poster contest on composting, and distributed over 150,000 copies of the poster statewide.

7. Worked with businesses to increase recycling opportunities and to use recycled materials in operations.

8. Conducted a statewide mail survey to track residential recycling and composting in the state.

9. Worked with the UW-Extension Solid and Hazardous Waste Education Center to maintain an online recycling markets database.

10. Developed recycling signs for use in state parks, businesses, and schools to increase recycling collection and awareness of opportunities to recycle when people are away from their homes.

Other DNR Activities

Newspaper Recycled Content Target and Fee

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

Table 19: Target Newspaper Recycled Content Percentages

Target Year	Percentage
1992 and 1993	10%
1994 and 1995	25
1996 and 1997	35
1998 and thereafter	33

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

The newspaper recycling fee does not apply to a publisher of a newspaper if: (a) the publisher documents that he or she is unable to obtain sufficient recycled content newsprint; and (b) the

newspaper has a circulation of less than 20,000, the publisher requests an exemption, and DNR determines that compliance with the target recycled content requirement would create a financial hardship for the publisher. Prior to January 1, 2001, DNR was required to exempt every publisher that met or exceeded 30% recycled content for the year.

Printers and publishers reported compliance with the requirements of the newspaper recycled content requirement as shown in Table 20. Fees totaling \$59,000 were paid for 1992 through 2009. The fees are deposited in the environmental management account (and were deposited in the recycling fund prior to 2011-12). For 2010, DNR did not collect the required reports, and did

not determine whether fees were due. For 2011, DNR determined that printers and publishers owed \$25,477 in fees for failing to meet the recycled content targets, but did not assess or collect the fees.

For 2011, of the 33 printers and publishers that reported their use of recycled content newsprint, 22 met or exceeded the requirements, and 11 (33%) did not meet the mandated 33% post-consumer recycled content requirement. DNR determined that the 11 printers and publishers should be assessed \$25,477 in newspaper recycling fees, but did not assess the fees. The statewide average recycled content used by Wisconsin printers and publishers did not meet the minimum recycled content standard in 1996 and 2011. It is unknown whether printers and publishers met the standard in 2010 because DNR did not collect the required reports.

Table 20: Compliance of Printers and Publishers with the Newspaper Recycled Content Requirement

Year	Exceeded or Met Requirements	Did Not Meet Requirements	Exemptions Granted	Fees Paid	Average Recycled Content
1992	69	2	0	\$353	23.4%
1993	78	0	0	0	28.9
1994	2	14	0	2,847	31.0
1995	8	26	21	610	27.3
1996	3	28	8	27,487	32.9*
1997	58	14	9	1,323	37.6
1998	63	9	9	2,750	41.9
1999	55	10	2	696	42.8
2000	59	5	0	567	45.5
2001	45	13	1	8,887	42.9
2002	58	10	0	596	41.8
2003	55	2	0	39	47.0
2004	48	10	3	1,204	41.3
2005	49	8	3	1,526	42.8
2006	47	8	0	5,753	45.1
2007	42	11	0	815	46.5
2008	37	9	7	1,197	41.0
2009	32	9	3	2,306	43.8
2010	**	**	**	**	**
2011	22	11	0	25,477***	29.2*

* Printers and publishers did not meet the minimum standards in 1996 and 2011.

** DNR did not collect the required reports from printers and publishers for 2010, and did not determine whether they met the minimum standards.

*** DNR did not assess or collect the required fees from printers and publishers for 2011.

Waste Oil Collection and Recycling

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

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

Battery Collection and Disposal

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

Used Oil Filters

As mentioned in the earlier section on landfill bans, used oil filters are banned from disposal in landfills as of January 1, 2011. DNR has met with organizations to obtain input about implementation of the law, and to provide education and information about the law.

Shingles

DNR has approved 20 facilities to process tear-off asphalt shingles from residences. DNR collected data that showed over 220,000 tons of shingles were diverted from disposal in landfills in 2011. Approximately half of them were processed for hot mix asphalt and the other half were processed for other uses. The number of tons di-

verted is potentially more than half of the amount of shingles that would have otherwise been land-filled in Wisconsin in 2011.

Carpet

Wisconsin has worked with other states, the U.S. Environmental Protection Agency, and the Wisconsin Department of Administration (DOA) to identify opportunities to promote recycling of used carpet. DNR compiled a list of retailers that recycle carpet in Wisconsin and posted the list on the Department's web site. DNR informed Wisconsin carpet recyclers about a carpet recycling forum in Illinois. The Department coordinated tours of carpet recycling facilities in Milwaukee and Madison.

Recycling Cooperative Efforts

DNR works with local governments and businesses on mercury reduction programs. DNR provides information to the public about ways to collect and recycle mercury in homes (thermostats and thermometers), dental offices, school science laboratories, auto salvage businesses, and hospitals. DNR staff also perform outreach and education activities related to recycling of fluorescent light bulbs.

DNR and DOA coordinated efforts to divert more than 72,000 tons of construction and demolition materials to recycling and reuse from state building projects.

DNR coordinated efforts with the UW-Extension to explore and promote sustainable methods for collecting and properly disposing of unused or unwanted pharmaceuticals.

Reimbursement for Disposal of Contaminated Sediment

In 2007 Act 20, an appropriation was created from the recycling fund to reimburse certain responsible parties for the difference between the cost of disposing in Wisconsin and transporting

certain PCB (polychlorinated biphenyls) contaminated sediment to an out-of-state hazardous waste disposal facility. While the program is not specifically a recycling program, it is mentioned in this paper because it was funded from the recycling fund.

Under the program, an eligible applicant is a responsible party under certain federal requirements or has entered into a consent decree with DNR or EPA for remediation of PCB contaminated sediment in concentration of 50 parts per million or greater. The sediment would be dredged from the bed or bank of a navigable water body in Wisconsin.

The applicant may request reimbursement of eligible costs incurred on or after May 1, 2007, including the costs of transportation, permits, and disposal fees for the disposal of PCB contaminated sediment out of state, less the costs for the disposal in state. DNR is required to pay each claim within 60 days of receiving a complete application. Applicants are required to submit a request for reimbursement within two years of the date the costs were incurred. However, 2009 Act 28 authorized applicants to submit a request for reimbursement for costs incurred between May 1, 2007, and June 30, 2009, no later than June 30, 2011.

It is anticipated that most of the claims submitted under the program in the next few years will relate to the Fox River PCB cleanup project. In addition, PCB removal projects on the Milwaukee, Sheboygan and Manitowoc Rivers, and other Wisconsin waters may also qualify.

DNR is required to promulgate administrative rules for the program, and is authorized to promulgate emergency rules. As of the fall of 2012, DNR had not promulgated emergency rules or forwarded proposed permanent rules to the Legislature.

Funding totaling \$10.5 million was appropriated for the program between 2007-08 and 2010-11. None of the appropriated funds were spent on the program. The 2007-08 appropriation of \$1.5 million was not used and was lapsed to the balance of the recycling fund. The appropriated amounts of \$3 million in each of 2008-09 through 2010-11 were transferred to the general fund under deficit reduction requirements of 2007 Acts 20 and 226, and 2009 Act 28. In 2011 Act 32, funding was eliminated, but the program and appropriation were retained and transferred to the environmental management account of the environmental fund.

DNR has received three claims totaling \$828,200 for work completed on contaminated sediment cleanup projects on the Fox River and Sheboygan River prior to July, 2011. DNR informed applicants that the Department was not paying claims because it transferred amounts appropriated in 2009-11 to the general fund under deficit reduction provisions of 2007 Act 20, and no amounts were appropriated in 2011-13.

University of Wisconsin System Activities

Solid Waste Experiment Centers and Solid Waste Research Council

In 1989, the UW Board of Regents was authorized to establish one or more solid waste experiment centers for the purpose of developing, demonstrating, promoting and assessing the costs and environmental effects of alternatives to solid waste disposal. In addition, The UW System was directed to conduct research into alternatives to solid waste disposal and the safe disposal of solid waste that cannot be recycled or composted. The Board was directed to appoint a Solid Waste Research Council to advise it regarding the awarding of solid waste research funds.

Prior to 1997-98, the UW System had allocated GPR funding and position authority for these purposes. However, 1997 Act 27 converted this funding to segregated monies from the recycling fund. The program currently is utilized to provide funding to UW System institutions for research into alternative methods for the disposal of solid waste. Under 2011 Act 32, \$155,400 SEG is provided to the UW System in 2012-13 for solid waste research and experiments with \$41,500 budgeted for a 0.5 program manager position, and \$113,900 budgeted for Solid Waste Research Council research award funds.

The Solid Waste Research Council currently has nine members representing seven UW campuses, UW-Extension and the UW System. Annually, the Council solicits proposals that investigate alternative methods of solid waste management, the reuse and recycling of materials, composting, source separation, and the disposal of household hazardous waste. For 2011-12, the Solid Waste Research Council awarded 17 grants totaling \$113,100 including fourteen grants of \$4,500 each for student research projects.

UW-Extension Solid and Hazardous Waste Education Center

The University of Wisconsin-Extension Solid and Hazardous Waste Education Center (SHWEC) with branches at UW-Madison, UW-Stevens Point, UW-Green Bay, and UW-Milwaukee, was created in 1989. Positions within UW-Extension are authorized to provide statewide information on hazardous pollution prevention and to provide educational and technical assistance related to recycling. The Center also provides information on waste reduction; produces written materials, educational teleconference network programs, webinars and video productions; and offers technical assistance to local governments and businesses on recycling, hazardous waste management, energy conservation, the use of renewable energy, pollution pre-

vention, source reduction and other cost effective waste reduction programs. SHWEC staff conduct workshops through the recycling program, and have developed web-based resources to address recycling and solid waste management needs as well as for other outreach priorities such as pollution prevention and waste reduction. (The Center's hazardous waste management, energy conservation, renewable energy, and pollution prevention programs are not described in this paper.)

To carry out its programs, SHWEC receives funding from various sources. The Center is appropriated \$388,200 SEG from the environmental fund in 2012-13 for education and technical assistance in recycling and recycling market development. This funding supports 3.7 positions at two SHWEC locations including: (1) UW-Stevens Point - 1.0 industrial environmental education specialist; and (2) UW-Extension Madison - 1.0 sustainable design specialist, 1.0 recycling specialist, and 0.7 program assistant, who supports the work of all center offices. In 2012-13, the UW-Extension has also internally allocated approximately \$118,000 GPR for SHWEC to support 1.0 faculty position located at UW-Milwaukee's School of Continuing Education.

In 2011-12, SHWEC also managed \$976,000 from various grants, contracts and revenue sources. This funding is used to provide technical assistance to industries, businesses, health care facilities, recyclers and other relevant entities to identify source reduction opportunities, methods to make products and packaging recyclable, appropriate recycling technologies, and the feasibility of using recyclable materials to manufacture other products.

Wisconsin Bioenergy Initiative

Under 2009 Act 28, the Legislature provided \$4,050,000 annually from the recycling fund (now the environmental fund) to support the Wisconsin Bioenergy Initiative. While the pro-

gram is not specifically a recycling program, it is mentioned in this paper because it was funded from the recycling fund. The majority of this funding, \$3,560,000, is allocated to the UW Energy Institute, located at UW-Madison, and two of its component research centers, the Wisconsin Bioenergy Initiative (WBI) and the Great Lakes Bioenergy Research Center (GLBRC). In 2011-12, \$1,968,000 of this funding was used to support eight faculty members and two research scientists working in areas related to bioenergy across various academic departments. An additional \$574,000 was used to acquire equipment and research materials for those faculty members and scientists as well as others doing research related to bioenergy.

The remaining funds were used to support two communications and outreach positions and one student position at WBI and to partially support the interim director, six outreach positions, and four student positions at the UW Energy Institute and the chief operating officer at GLBRC. A portion of the funding was also used to increase the number of courses offered in bioenergy and related fields by funding faculty and instructional staff time and to fund other non-staff costs related to research and outreach.

In addition to the funding provided for UW-Madison, \$440,000 annually in WBI funding is allocated to UW-Stevens Point. This funding supports the following four positions: (a) the Director of the Wisconsin Institute for Sustainable Technology (WIST); (b) a faculty position in the biology department; (c) a faculty position in the paper sciences department; and (d) a faculty position for the Wisconsin K-12 Energy Education Program (KEEP).

WIST focuses on the identification and development of bio-based platform chemicals for the fuel and polymer industries as well as feedstock opportunities for waste and underutilized co-products. As of September 2012, WIST has re-

ceived \$6.9 million in federal grants from the U.S. Department of Defense, U.S. Department of Agriculture, and the Wisconsin Office of Energy Independence (which administers federal grants). In addition, WIST has provided \$272,000 of contract services to businesses in the pulp, paper, packaging and waste management sectors.

Finally, \$50,000 was provided in 2011-12 and 2012-13 to UW-Green Bay's Entrepreneurship Institute to promote an annual green innovations symposium.

Department of Administration Responsibilities

The Department of Administration (DOA) is responsible for establishing commodity procurement and disposal guidelines relating to recycled materials. The Department must create a resource recovery and recycling program to promote the reduction of solid waste by state agencies and authorities that includes the separation, recovery and disposition of recyclable materials and the procurement of recycled materials and recovered materials. The Department must require agencies and authorities to participate in these recycling programs. The statutes also require DOA to include local governmental units in these recycling efforts, when feasible.

In general, the statewide recycling law attempts to leverage state and local government procurement funding to encourage market development for recycled materials. Since state and local governments collectively constitute one of the largest purchasers of goods in Wisconsin, procurement guidelines that favor the use of recycled materials are thought to create stable markets for goods made from these materials. In turn, the development of stable markets should serve to lower the economic risks faced by manufac-

turers of commodities made from recycled and recovered materials.

DOA and other state agencies and authorities with delegated purchasing authority are required to write commodity specifications that incorporate requirements for the procurement of products made from recycled materials and recovered materials, if the use of such materials is technologically and economically feasible. The law covers the purchase of paper and paper products, plastic and plastic products, glass and glass products, motor oil and lubricants, construction materials, furnishings and highway equipment. Specifications must consider, where practicable, recyclability and the ultimate disposition of purchased goods. Purchasing specifications must discourage the purchase of single-use products in favor of multiple-use, durable products.

Where practicable, DOA, agencies with delegated purchasing authority, state authorities, and participating local units of government are required to make purchases that are from a bidder who has the lowest life cycle cost, which may include the costs of energy efficiency, acquisition and conversion, money, transportation, warehousing and distribution, training, operation and maintenance, and disposition and resale.

The Department, agencies with delegated purchasing authority, state authorities, and participating local units of government are required to ensure that 40% of all purchased paper is made from recycled or recovered content.

Finally, under s. 16.15, DOA operates a program for state agencies and authorities that requires them to separate, for recycling, the following materials: (a) lead acid batteries; (b) waste oil; (c) major appliances; (d) collected yard waste; and (e) at least 50% of aluminum containers, corrugated paper, foam polystyrene packaging, glass containers, printed material, office paper, plastic containers, steel containers, waste

tires, and steel and aluminum beverage containers. The DNR may provide a variance on the recycling collection of items under item (e), if the sale of those items exceed minimum recovery requirements (generally more can be earned by the sale than by disposing of the processed material).

Department of Transportation Activities

The Department of Transportation (DOT) is required to use or encourage the use of the maximum possible amount of recovered materials in construction projects.

DOT indicates that it is complying with this requirement by developing technical standards for the use of various materials in construction and encouraging contractors to use these materials when possible. The Department does not generally require contractors to use recovered materials, but indicates that they are used if the contractor finds that their use would be economical. Some materials that have been used in projects include fly ash, paper mill ash, foundry sand, steel slag, glass, tires, pottery cull, and bottom ash. These materials are commonly used as fill for embankments or are blended with traditional materials to reduce the amount of those materials needed for the roadway base course.

In addition to the use of the recovered materials mentioned above, which are largely waste products from industrial activities, highway construction projects commonly reuse old paving material as the crushed aggregate for use in the base course of the new roadway. The Department's technical standards for the use of materials recovered from off site also include standards for the onsite recovery of old pavement materials.

Department of Agriculture, Trade and Consumer Protection Activities

The Department of Agriculture, Trade and Consumer Protection (DATCP) administers requirements related to labeling for plastic containers, recycled content of plastic containers, heavy metals content in packaging, truth in labeling and battery collection and disposal. DATCP estimates that it is using less than 0.1 full-time equivalent (FTE) positions to administer these provisions, and most of its efforts are focused on issues of product compliance with these requirements. In addition, DATCP also administers the state's clean sweep program, which provides grants for the collection and disposal of hazardous materials and is funded from the environmental fund (formerly from the recycling fund).

Plastic Container Labeling

Administrative rule ATCP 137 establishes labeling requirements for plastic containers, which provide information needed by operators of materials recovery programs to facilitate recycling or reuse of the containers. Each container is required to be labeled with a number and initials based on its composition. DATCP is authorized to grant a variance from the labeling requirements for containers for which labeling is not technologically possible. The variance is for up to one year and is renewable. Blister packs, which are defined as containers with a rigid backing to which a plastic film or preformed semi-rigid plastic covering is affixed, are exempt from labeling requirements. DATCP has not received any requests for variances to the labeling requirement. Occasionally the Department does receive requests for letters of non-objection because of plastic resin content of certain containers, and DATCP has issued such letters if the product is compatible with recycling streams. The Department also responds informally to three

to four questions each year it may receive from interested parties regarding proper labeling of plastics, but these contacts do not rise to the level of complaints or other requests for action.

Plastic Container Recycled Content

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

Heavy Metals Content in Packaging

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

Truth in Labeling

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

es that no person may label or represent any product in violation of these standards. The standards are intended to be consistent, to the greatest extent practicable, with nationwide industry consensus standards. Any person who labels or represents a product in violation of these standards is subject to a forfeiture of not less than \$100 nor more than \$10,000 for each violation. In 2003, DATCP received one complaint of improper labeling, which was related to improper resin labeling of plastic containers that resulted in a written assurance of corrective action from the manufacturer. In 2005, DATCP received five complaints of improper labeling, which were related to recycled content in envelopes, the proper recycling number code on plastic containers, and inquiries on plastic content. DATCP received two complaints in 2007. Both were resolved through mediation. No complaints have since been received.

Battery Collection and Disposal

Beginning with 1993 Act 74, several acts have established conditions for the sale, collection and disposal of certain batteries containing mercury. No person may sell any of the following batteries unless the manufacturer has certified to DATCP that the battery contains no mercury that was intentionally introduced: (a) a zinc carbon battery that is manufactured after July 1, 1994; (b) an alkaline manganese battery, except for alkaline manganese button cell batteries, that are manufactured after January 1, 1996; or (c) a zinc air button cell battery manufactured after January 1, 2013. No person may sell an alkaline manganese button cell battery that is manufactured after January 1, 1996, unless the manufacturer has certified to DATCP that the battery contains no more than 25 milligrams of mercury. DATCP is to maintain a list of batteries that have been certified.

In addition, waste mercuric oxide batteries, other than mercuric oxide button cell batteries,

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

Clean Sweep Program

The clean sweep program provides grants to counties and municipalities for the collection of pesticides, farm chemicals, and household hazardous wastes from farmers, businesses, households, schools and government agencies. 2003 Act 33 created the program by consolidating DATCP's agricultural chemical and pesticide collection program and DNR's household clean sweep grant program under DATCP. The program was further expanded under 2007 Act 20 to allow grants to fund the collection and disposal of unwanted prescription drugs. The program is currently administered under ATCP 34.

Grant funding for the combined program was supported by the recycling fund between 2003-04 and 2010-11. 2011 Act 32 transferred clean sweep grant funding from the recycling fund to the environmental management account of the environmental fund, beginning with 2011-12. DATCP is authorized \$750,000 environmental fund SEG annually for clean sweep grants in the 2011-13 biennium. Grant awards are made to re-

imburse a portion of local costs in a given calendar year. Therefore, grant totals may be greater than \$750,000 for a calendar year depending on when funds are disbursed. The maximum fiscal year allocation remains \$750,000. DATCP currently reimburses most grants in the fiscal year beginning during the grant year. For example, events taking place in the 2012 calendar year will mostly be reimbursed using the 2012-13 fiscal year appropriation.

For all grants, counties and municipalities must offer a minimum match of 25% of the clean sweep project costs, where matching costs include cash or services. While there is no maximum grant award set in statute or administrative code, DATCP determines the maximum grant internally each grant cycle in an attempt to provide most eligible counties with some level of funding. The 2012 maximum grants are: (a) \$14,000 for a household waste one-time collection, which collects wastes up to three days in a calendar year; (b) \$19,000 for a household waste continuous collection, which operates four days or more each year; (c) \$8,000 for an agricultural waste one-time event; (d) \$11,000 for an agricultural waste continuous collection; (e) \$4,000 for a prescription drug collection administered by an individual recipient; and (f) \$10,000 for a multi-jurisdictional prescription drug collection. These grant amounts will be continued into at least 2013. Additionally, the statutes provide DATCP must award at least two thirds of the funding available annually for clean sweep grants for household hazardous waste and pharmaceuticals collections. Counties and other municipalities have organized regional collections in recent years, and DATCP has funded such collections at levels appropriate to the circumstances of the region.

The Department expended \$683,800 for household hazardous waste and agricultural waste collection events in the 2011 calendar year, and an additional \$73,700 for collections of

unwanted prescription drugs. Grants went to a total of 12 one-day collections, 15 continuous collections and 18 prescription drug collections. These grants were made from the fiscal year 2011-12 appropriation.

For 2012 events, DATCP awarded grants of \$827,600, including the 2012-13 appropriation of \$750,000 and \$77,600 in funds encumbered from 2011-12. The grant amounts include: (a) \$501,800 for household hazardous waste collections; (b) \$205,300 for collections of agricultural waste, including \$2,000 for businesses that are very small quantity generators (VSQGs), which are described below; and (c) \$120,500 for collections of unwanted prescription drugs. These funds are to be expended in 2012-13. Grant recipients for 2012 include 30 continuous collections and 12 limited-time events occurring in either the spring, the fall, or both.

Tonnages collected at the 2011 events totaled approximately 2.3 million pounds, including: (a) 2,134,800 pounds of household hazardous waste; (b) 146,600 pounds of waste from VSQGs or agricultural sources; and (c) 31,800 pounds of unwanted prescription drugs. Wastes collected at events of grant recipients in calendar year 2010 totaled 963,800 pounds, including: (a) 794,000 pounds of household hazardous waste; (b) 141,600 pounds of agricultural or VSQG waste; and (c) 28,200 pounds of prescription drugs. DATCP attributes the increase between 2010 and 2011 mostly to additional collections being funded by grants.

Prior to 2009 Act 28, the Department customarily assigned 1.0 position to administration of clean sweep. This position, which is supported by the segregated agrichemical management (ACM) fund, was reduced to a 0.75 position under 2009 Act 28. This was intended to be commensurate with a reduction in grant funds from \$1 million to \$750,000 annually. However, DATCP estimates actual program staffing has been between 0.3 and

0.4 FTE during the 2010-11 and 2011-12 fiscal years, with corresponding administrative funding equal to about \$30,000 to \$37,000. The Department reports lower costs are due mostly to: (a) changes in application and reporting processes that have reduced the staffing needed for contract awarding and oversight; and (b) a vacancy in the assigned clean sweep position, which required other staff persons to fill in on an as-needed basis. However, revisions being proposed to administrative rule ATCP 34, which governs the clean sweep program, are expected to temporarily increase staffing workload for the program in 2012-13.

Grant recipients sign a contract with DATCP and are awarded their grants as reimbursements for eligible expenditures after the Department receives documentation of eligible expenses. Eligible grant expenditures include: (a) costs to hire a hazardous waste contractor; (b) costs for equipment rentals, supplies and services to operate the collection site and handle disposal; (c) county staff costs related to a permanent collection event; and (d) costs of local educational and promotional activities related to a project.

Grants may not be used to collect oil that is not contaminated, batteries, contaminated soil or debris, fluorescent tubes, triple-rinsed plastic pesticide containers, materials that may be disposed of at other waste or recycling sites, and chemicals for which there is no federally-approved or state-approved disposal method.

Commercial firms that qualify as VSQGs are allowed to bring in hazardous wastes for disposal at clean sweep sites. Very small-quantity generators are firms that do not produce more than 100 kilograms (220 pounds) of hazardous waste in any given month, and that do not accumulate quantities of more than 1,000 kilograms (2,205 pounds) of hazardous waste. VSQGs are eligible for a 50% subsidy from DATCP for disposal of

pesticides, but must pay the full disposal costs of other hazardous chemicals. VSQGs must register with the collecting county or hazardous waste contractor. The county or contractor must keep records of the amount of waste collected from the VSQG, the total cost to collect and dispose of this waste, and the total amount of payments received from the generator. DATCP allocated \$5,000 for 2010 collections for costs of disposing of VSQG-generated waste.

Prior to 2003 Act 33, the agricultural clean sweep program was provided funding of \$560,400 ACM SEG annually. The ACM fund collects revenue from a variety of fertilizer, pesticide and commercial feed fees. DNR's household clean sweep program was funded by \$150,000 SEG annually from the environmental management account prior to 2003.

Department of Safety and Professional Services Activities

Recycling Space in Public Buildings

The Safety and Buildings Division in the Department of Safety and Professional Services (formerly Department of Commerce prior to July 1, 2011) administers a provision in the state commercial building code to require that any person engaged in constructing a public building provide adequate space in or adjacent to, the building for the separation, temporary storage and collection of materials subject to the 1995 landfill and incineration bans. The code includes guidelines for the amount of space that should be set aside for recycling space, based on the amount of recyclables that could be expected to be accumulated in the building.

Department of Corrections Activities

Previously, the Department of Corrections administered a computer recycling program under which inmates salvaged, repaired and upgraded donated computers. Computers and computer-related accessories were collected from drop-off sites around the state or from non-profit organizations, cities and municipalities, with repairable components remanufactured at Taycheedah Correctional Institution, and components determined to be non-repairable demanufactured at the Racine Youthful Offenders Correctional Facility or Redgranite Correctional

Institution. Repaired computers were either sold or donated to schools, state or local agencies, and private non-profits. However, due to declining revenues, the Department administratively suspended the program in 2010 in order to prevent a deficit. The Department indicates it will continue to evaluate the recycling market in order to determine if the program can be resumed in the future. The recycling appropriation expended \$128,300 SEG in 2011-12, and is appropriated \$257,500 SEG in 2012-13. While the broader computer recycling program has been suspended, the Department indicates that 2012-13 funding will support continued computer recycling needs within the Department.

APPENDICES

Several appendices provide additional program information.

- Appendix I lists the appropriations for programs funded from the former segregated recycling fund in 2010-11 and from the current segregated environmental management account of the environmental fund in 2011-12 and 2012-13.
- Appendix II shows cumulative revenues and expenditures for the recycling fund from 1990-91 through 2010-11.
- Appendix III describes the major state statutory policies related to solid waste reduction, reuse, recycling, composting and resource recovery.
- Appendix IV describes exceptions to the 1991, 1993 and 1995 landfill and incineration bans.
- Appendix V describes the required components of an effective recycling program.
- Appendix VI describes DNR's authority to grant a variance from the effective recycling program criteria.
- Appendix VII summarizes major provisions related to waste generated outside of Wisconsin.

APPENDIX I

Appropriations Funded From the Segregated Recycling Fund in 2010-11, and Transferred to the Environmental Management Account in 2011-12 and 2012-13 Budgeted Amounts

		2010-11 Recycling		2011-12 Environmental		2012-13 Environmental	
		Amount	Positions	Amount	Positions	Amount	Positions
Administrative Appropriations							
<i>Commerce</i>							
143 (1)(um)	Renewable energy grants and loans	\$69,700	1.0	Repealed		Repealed	
<i>Corrections</i>							
410 (1)(qm)	Computer recycling	313,400	2.0	\$257,500	1.0	\$257,500	1.0
<i>Natural Resources</i>							
370 (2)(hq)	Recycling program and administration	1,370,100	15.0	1,606,300	15.5	1,582,600	15.5
(2)(hr)	Electronic waste recycling administration	205,000	2.0	152,300	1.0	128,600	1.0
(3)(mr)	Recycling enforcement and research	286,700	2.4	298,600	2.4	294,800	2.4
(8)(iw)	Statewide recycling administration	412,100	0.5	407,200	0.5	407,200	0.5
(9)(is)	Statewide recycling education	423,800	4.0	210,500	2.0	210,500	2.0
<i>Revenue</i>							
566 (1)(q)	Recycling fees administration	207,500	1.0	Transferred to Economic Development Fund			
<i>University of Wisconsin System</i>							
285 (1)(s)	Wisconsin bioenergy initiative	4,050,000	0.0	4,050,000	0.0	4,050,000	0.0
(1)(tb)	Extension recycling education	344,000	4.0	388,200	4.0	388,200	4.0
(1)(tm)	Solid waste research and experiments	<u>154,300</u>	<u>0.5</u>	<u>155,400</u>	<u>0.5</u>	<u>155,400</u>	<u>0.5</u>
	Subtotal	<u>\$7,836,600</u>	<u>32.4</u>	<u>\$7,526,000</u>	<u>26.9</u>	<u>\$7,474,800</u>	<u>26.9</u>
Financial Assistance Appropriations							
<i>Agriculture, Trade and Consumer Protection</i>							
115 (7)(va)	Clean sweep grants	\$750,000		\$750,000		\$750,000	
<i>Commerce</i>							
143 (1)(tm)	Renewable energy grants and loans	14,850,000*		Repealed		Repealed	
<i>Natural Resources</i>							
370 (6)(br)	Waste reduction and recycling grants	1,500,000		Repealed		Repealed	
(6)(bq)	Municipal and county recycling grants	32,098,100		19,000,000		19,000,000	
(6)(bv)	Recycling efficiency incentive grants	0		Repealed		Repealed	
(6)(bw)	Recycling consolidation grants	New in 2011-12		1,000,000		1,000,000	
(6)(ev)	Reimbursement for disposal of contaminated sediment	<u>3,000,000**</u>		<u>0</u>		<u>0</u>	
	Subtotal	<u>\$49,498,100</u>		<u>\$20,750,000</u>		<u>\$20,750,000</u>	
TOTAL RECYCLING APPROPRIATIONS		\$57,334,700		\$28,276,000		\$28,224,800	

*2009 Act 28 directed that the entire appropriation for renewable energy grants and loans transfer to the general fund in 2010-11.

**DNR has not made expenditures for contaminated sediment disposal, and transferred the appropriated amount to the general fund in 2010-11.

APPENDIX II

Recycling Fund Cumulative Revenues and Expenditures 1990-91 Through 2010-11

	Amount (In Millions)	Percent
REVENUES		
Recycling Surcharge	\$584.09	66.30%
Recycling Tipping Fee	236.75	26.87
Transfer from the General Fund	29.70	3.37
Electronics Recycling Fee	0.53	0.06
Interest Income and Miscellaneous	<u>29.93</u>	<u>3.40</u>
Total Revenues	\$881.00	100.00%
 EXPENDITURES AND ENCUMBRANCES		
Program Administration and Education		
<i>Administration</i>		
Recycling activities	\$0.24	0.03%
<i>Agriculture, Trade and Consumer Protection</i>		
Recycling products regulation	1.12	0.13
<i>Commerce</i>		
Recycling development and rebate program administration	0.82	0.09
Recycling market development board; operations	1.75	0.20
Renewable grants and loans administration	0.16	0.02
<i>Corrections</i>		
Computer recycling	3.80	0.43
<i>Natural Resources</i>		
Park and forest recycling activities	0.34	0.04
Recycling program and administration	22.06	2.52
Electronics recycling administration	0.26	0.03
Recycling--enforcement	2.11	0.24
Recycling grants--administration	0.83	0.09
Statewide recycling administration	15.99	1.83
Statewide recycling education	5.05	0.58
<i>Revenue</i>		
Recycling fees administration	4.74	0.54
<i>Wisconsin Technical College System</i>		
Recycling programs	0.02	0.00
<i>University of Wisconsin System</i>		
Extension recycling education	6.66	0.76
Solid waste research and experiments	2.17	0.25
Wisconsin bioenergy initiative	6.45	0.74

	Amount (In Millions)	Percent
Grant, Loan, Rebate and Financial Assistance Programs		
<i>Agriculture, Trade and Consumer Protection</i>		
Clean sweep grants	\$5.77	0.66%
Grants for soybean crushing facilities	3.59	0.41
<i>Commerce</i>		
Renewable energy grants and loans	13.80	1.58
Recycling loans & grants	3.56	0.41
Recycling rebates program -- assistance	10.81	1.23
Recycling market development board; assistance	22.15	2.53
Technology and pollution control and abatement grants and loans	0.40	0.05
<i>Natural Resources</i>		
Environmental aids - municipal & county recycling grants	527.60	60.25
Recycling efficiency incentive grants	12.90	1.47
Environmental aids - waste reduction and recycling grants	12.86	1.47
Environmental aids - lake states wood utilization consortium	0.19	0.02
Wheelchair recycling project	0.02	0.00
Reimbursement for PCB-contaminated sediment transport	0.00	0.00
<i>WHEDA</i>		
Transfer--development reserve fund	0.68	0.08
Transfer—brownfields redevelopment	4.00	0.46
<i>Transfer to General Fund and Conservation Fund</i>	<u>182.68</u>	<u>20.86</u>
TOTAL EXPENDITURES	\$875.58	100.00%
Cumulative Revenues less Cumulative Expenditures	\$5.42	
Less 2010-11 Year End Continuing Balances and Encumbrances	\$0.83	
Available July 1, 2011 Fund Balance	\$4.59	

APPENDIX III

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

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

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

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

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

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

6. Implementation of solid waste reduction, reuse, recycling, composting and resource recovery systems and operations requires the involve-

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

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

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

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

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

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

APPENDIX IV

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

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

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

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

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

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

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

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

8. DNR may grant a waiver or conditional waiver to any of the 1995 bans if the applicant shows that the recyclable material has been contaminated and cannot feasibly be cleaned for recycling and DNR determines that granting the

waiver or conditional waiver will not impede progress toward meeting the goals of the state solid waste policies. DNR may not grant a waiver or conditional waiver for material that has been intentionally or negligently contaminated.

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

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

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

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

APPENDIX V

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

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

APPENDIX VI

Variations from Effective Program Criteria

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

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

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

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

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

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

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

APPENDIX VII

Summary of Major Out-of-State Waste Legal Provisions

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

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

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

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

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